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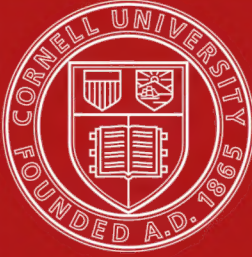
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BY  
HENRY W. SCOTT,

OF THE KANSAS CITY BAR.

Author of "Scott's Probate Law and Practice," "Powers, Duties and Liabilities  
of County Officers," "The Evolution of Law," etc., etc.

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INTRODUCTION BY  
HON. JOHN J. INGALLS.

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NEW YORK.  
CHARLES L. WEBSTER & COMPANY.  
1891.

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## PREFACE.

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IN these days, when the press pours forth an almost uninterrupted stream of personal narratives, testifying, it is to be presumed, of a popular predilection for that class of literature, no elaboration is necessary in presenting such a volume as this to the public.

The title, "Distinguished American Lawyers," has been rigorously adhered to, except that some of the subjects have become prominent in public life as well as at the Bar. In the selection of subjects from the many eminent members of the profession, great care and deliberation have been used. The assistance of the foremost literary men of the country has been enlisted, as well as the aid of many of the most eminent representatives of the forum itself, and this to say nothing of the invaluable services rendered in that direction by the distinguished author of our Introduction.

This volume differs widely in conception and purpose from preceding works which have attempted, in a vague sort of way, to deal with the American Bar. Some were excellent in their way, but by far the larger portion found their *raison d'être* in the self-conceit of men who could be easily induced to pay liberally for the privilege of seeing their visages and obscure actions blazoned, exaggerated and paraded before the public.

It must be understood that this is purely a literary production; the subjects selected and dealt with according to their real worth and eminence, without partiality or favoritism. All partisanship has been eliminated and

the subject treated in the manner and extent his life and great distinction entitles him. Nor is it to be presumed that the author arrogates to himself what credit there may be due in the preparation of such a book. It has only been made possible through the great kindness of able editorial assistants, and the forbearance and consideration the subjects themselves have given the matter in our efforts to collate the necessary material. Thus it is that the correctness of the text and the truthfulness of the memoirs can be guaranteed, and the true life and struggles of our great men brought to light with the stamp of authenticity. Though modesty has somewhat interfered in our desire to publish the real struggles in their lives, yet by earnest effort, covering a period of almost three years, we have succeeded in overcoming this impediment, and in our victory feel that we shall receive the commendation of the reading public, and excite greater admiration and interest in our subjects, rising as they did from poverty and obscurity, until success at last crowned their efforts and placed them upon a pedestal of glory as imperishable as the stars in heaven, and as priceless as the heritage of the world.

Such illustrious characters as Abraham Lincoln, Daniel Webster, Rufus Choate, John Marshall and others of our distinguished men of the nineteenth century, will ever be held up as examples to all mankind; and though their lifeless tenements shall lie voiceless in their sepulchers for all the centuries to come, their memories will live on till the footsteps of mortality shall reach them on the shores of eternity.

HENRY W. SCOTT.

*Kansas City, Mo., April, 1891.*

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## INTRODUCTION.

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AS there is no study so interesting to humanity as human nature, and no subject so attractive to mankind as man, so the departments of literature that have been most sedulously cultivated in ancient and modern times have been history and biography.

History records the birth, growth and death, the struggles, the intercourse and the destinies of nations. Biography narrates the lives of the individuals of which nations are composed. One treats of peoples and races; the other of persons. The first is general, and chronicles great political movements, wars, disputed successions, and the ambitions of dynasties which modify governments and change the boundaries of kingdoms; the latter is special and is confined to the personal events, incidents, traits, qualities and characteristics of its subjects.

Biography preceded history, and ancient literature is rich in examples. The book of Job, the earliest known production of the human intellect, and the most interesting, because it shows that man, in the infancy of the race, was troubled by the same problems that perplex us now, is a biography. The Old Testament abounds in these compositions, of which the lives of the patriarchs and the story of Ruth are familiar instances. The mythologies of Greece and Rome are biographies, and the literature of those nations has given no more valuable treasure to the world than Plutarch's lives and the Sophists by Philostratus.

The demand for individual biographies having become so insatiable in modern times they have grown

beyond the dimensions of any catalogue, and the annual flood continues unabated ; some philosophical, others historical, descriptive and critical. Much is insignificant and worthless, but among the melancholy waste of trite and insipid platitudes there are occasional exceptions, so rich and picturesque in thought, style, treatment and scope, and so important on account of the relationship of the subject to the age that they survive in immortal vigor and appeal with unimpaired zest to every succeeding generation. Such are Boswell's *Life of Johnson* ; *Sterling*, by Carlyle ; *Goethe*, by Lewes ; *Froude's Cæsar*, and last but most important, Otto Trevelyan's *Charles James Fox*, which, in composition, spirit, construction and discernment stands easily foremost, with the dignity of history, the charm of biography and the intense passion of romance and tragedy. It was of such books that Dr. Johnson said, "No species of writing seems more worthy of cultivation than biography, since none can more certainly enchain the heart by irresistible interest, or more widely diffuse instruction to every diversity of condition."

This volume does not aspire to the dignity of Tacitus nor to the analytical dissertation of Condorcet. It is a collection of sketches of the lives of "Distinguished American Lawyers" many of whom have been prominent in public life as well as at the bar, and is intended specially for the young who are struggling in obscurity against the obstacles of poverty, and who require the stimulus presented by the contemplation of the careers of such as have encountered similar difficulties and achieved renown in every field of human effort. To these it will be an inspiration and a prophecy.

There is no prescription for success. To him that hath shall be given and from him that hath not shall be taken away even that which he seemeth to have. Two shall be grinding at the mill, and one shall be taken and

the other left. A man may apparently deserve fame and fortune and obtain neither ; or he may deserve neither and obtain both. Destiny is not logical nor just. It seems sometimes as if there must be a peculiar assemblage of faculties that commands success, so that those disqualified and having neither mental nor moral equipment acquire without effort the prizes of the world—riches, station and felicity—while those of whom success might have been predicted, are doomed to penury and obscurity. Many brilliant youths fail to fulfill their early promise and do not justify the prophecies of greatness because they loiter by the way, while their dull competitors press sturdily onward, resisting the temptation to “pluck every flower and repose in every shade.” Others do not succeed for want of opportunity.

In a domain of law there should be no such thing as luck, and every man should receive the just reward of his labors and go to his own place. But any philosophy of life that rejects chance as a factor is fatally defective. It is usual for those who seek to exalt human destiny to assert that great men make the environment of their greatness. This may sometimes be true, but the rule is otherwise. Grant, Sherman and Sheridan had little to do with bringing on the Civil War. They would have prevented it if they could, but had it not occurred their lives would probably have been spent in the inglorious inactivity of camps and garrisons on the frontier, or the obscurity of humble private avocations. But for the French Revolution, in which Napoleon was too young to participate, the great commander might have died a subaltern of artillery or a soldier of fortune on other fields.

No man can be a leader unless there is a crisis, and no orator can be eloquent unless there is an occasion. He may charm by rhetoric, attitude and gesture, but Demosthenes, Chatham, Burke and Webster are immortal because they interpreted the purposes and gave voice

to the passions of epochs. Sometimes the man does not appear with the emergency. No person bears the same relation to our Civil War, the most important period of our history, as Samuel Adams and Patrick Henry sustain to the American Revolution, or Gladstone to the cause of Home Rule in Ireland. The only conspicuous utterance that rises spontaneously to the memory is the little speech of Lincoln at Gettysburg, which was read from three foolscap pages in less than ten minutes, while Everett declaimed two hours from the same pavilion and his words are forgotten.

Opportunity comes once to all, but the capacity to recognize and grasp it is an endowment given to few, and neglected, it seldom presents itself again. The reader of these narratives, therefore, will search them in vain for any precepts that will instruct him how to inevitably become eloquent, or rich, or renowned. Of the journey to these goals there is no itinerary. Along the voyage of life there are beacons and buoys upon reefs and headlands to invite and warn, but no pilot can unerringly steer into these fortunate havens. Every navigator upon this sea is a Columbus. He sets sail for an undiscovered continent. He has ship and cargo, chart and compass, but no underwriter can issue a policy of insurance against loss and wreck.

But the perusal of these pages will be of inestimable value in teaching the ingenuous and ambitious youth of America, that though there is no indispensable formula for success, so there are no obstacles which undaunted resolution, industry and courage cannot surmount. Humble birth, poverty and privation are rather hostages than foes to fortune. Of those recorded in this volume, indeed, of all the leaders in letters, arts and arms in modern times, few have been born to the purple. Natal silver spoons have not been frequent in mouths that have charmed, taught or commanded mankind in riper

years. The presidents, legislators, judges, inventors and merchant princes of 1920 will not be the gilded youths of 1890, leading lives of sensual indulgence and faring sumptuously every day, but the sons of farmers, artisans, and laborers who are striving to enter in at the strait gate against discouragements that seem sometimes insuperable. No one reaches the full stature of his powers except under the stress and pressure of necessity, and he who would have wings must tempt the abyss.

The careers herein depicted illustrate vividly the opportunities afforded to young men of character, energy and ambition in the United States. The removal of hereditary bars, the abolition of caste, privilege, authority and prerogative have prevented here the social stratification which exists under other governments, and leaves the individual free to follow the dictates and preferences of his own faculties, and to act in any direction that his own genius may impel. The profession of law in other lands is aristocratic and exclusive in its limitations, and difficult of access; but here the tendency to fill its ranks by constant reinforcements increases from year to year.

Much flippant and puerile, but harmless, criticism has been directed at the legal profession and its practitioners, by the self-confessed humorists of the press, based upon alleged torpor of conscience, and moral flexibility. But the lawyers of every age have been the recognized leaders of enlightened public opinion, the champions of human rights and the defenders of civil and religious liberty. In periods of danger and tumult, when established institutions are threatened by false instructions or by appeals to violence, the thoughtful and conservative masses of the people have always turned to the bar for advice, counsel and direction.

Of the law it can be said, as of no other profession, that a knowledge of its principles is of benefit and

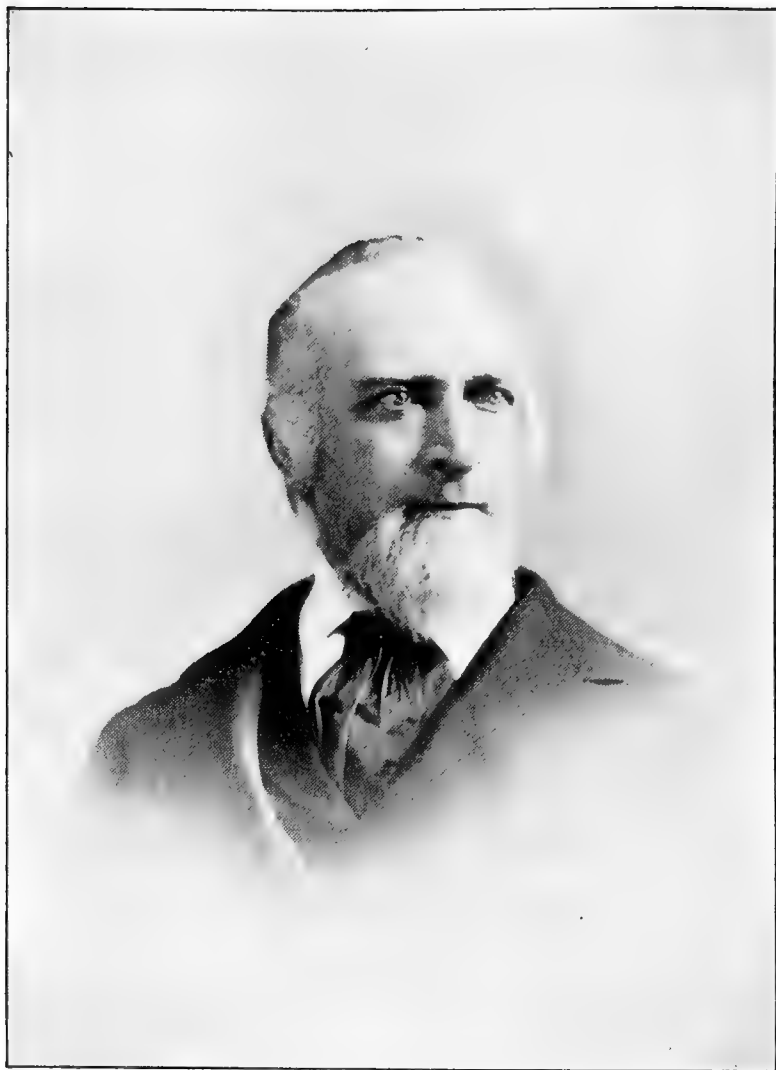
advantage in every occupation and in all conditions of life. Next to the profession of arms it is the profession of honor. Forensic triumphs are second only to victories won upon the battle field, and an acquaintance with the lives of those who have achieved renown in such memorable contests, the gladiators of the intellectual arena, must be of absorbing interest, as well as of incalculable advantage to the ambitious young students who are preparing for the contests of the future.

The compiler of this series is a young man of unusual diligence, thoughtfulness and application, himself a member of the bar and an author of considerable repute, who is in cordial sympathy with those for whose encouragement this work is especially intended.

JOHN J. INGALLS.

*Oak Ridge, April, 1891.*





W. A. Seach

## WILLIAM AUGUSTUS BEACH.

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MANY of America's great lawyers have achieved distinction in the councils of the Nation after years of hard work in the legal forum. Some have divided the honors of their reputation with other vocations, letters, diplomacy and the charge of vast corporations. The fame of the majority of our prominent jurists, perhaps, will be found to lie principally in the domain of politics, the Bar seemingly the stepping-stone to political preferment under our American system.

The subject of this sketch, however, was a lawyer in the most rigid acceptation of the term. His prominence, which is wonderful to contemplate in its relations to the several attributes that made up his character as an advocate, was gained solely in the practice of the law. For nearly half a century his name stood without dispute as a leader of the Bar of the great state of New York. The flattering invitations which politics held out to him had no charms. He was wedded to his profession; his love for it was unchangeable, as true as the magnet to the pole.

Mr. Beach was born at Saratoga Springs, in the State of New York, on the 9th day of December, 1809. His father, who was a wealthy merchant, was abundantly able to allow his son to go through college; but the old gentleman seems to have been a little erratic in his ideas of what constituted the proper methods to acquire an education. He was first sent to the local academy, where he was graduated, and then the interrogatory was put to him by his father as to his choice of a vocation. The

son did not know what to choose, but his father said to him very decidedly that it was his wish he should be a lawyer. The boy at that time had no conception of what the study of the law involved. His thoughts were concentrated upon how to get a library, which he supposed to be the first requisite in carrying out the desire of his father, and his first inquiry was, "How shall I get a library?" To which his father replied that if he would do just as he desired him to do for a year or two he would pay him a stated salary, and that he would, by the time he really needed one, have accumulated sufficient money to make the necessary purchase.

The bargain was struck between the eccentric father and his promising son, the terms of which were that he was to retire to the home of an uncle, who lived on a farm in the recesses of the mountains, and there devote himself to the study of three books with which he was furnished. These were the Bible, Shakespeare and Bunyan's *Pilgrim's Progress*. Another of the conditions imposed upon the obedient boy was that each of the prescribed volumes he must read through carefully three times and make copious notes of his reflections in the perusal of the famous works. The Bible seemed to be the hardest of all for the future great advocate to become interested in. Of course, the two others possessed an immediate charm for him, but soon the Bible began to fascinate his mind, and he came out of the trial imposed by the elder Beach with a ripe knowledge of the contents of the great works that had been given as a task to study. This apparently strange course insisted upon by the father was fruitful of the most magnificent results in the formation of the great lawyer, who was to be developed from the rigid discipline exacted. It was the foundation of that wonderful vocabulary which charmed in after years all who heard the well chosen words drop from the lips of the great advocate in his appeals to a jury.

One of the most remarkable facts connected with Mr. Beach's long and active life is, that, with the exception of four years, from 1843 to 1847, when he was but thirty-four, during which period he filled the office of District Attorney for his native county. He never again occupied a public position, and this because of his devotion to the profession he had chosen. This is indeed a rare record, and displays a determination of character which few men possess in this age, when the song of the political siren is so seductive to the bright American youth, who sees the possibilities of the civic crown as great for him as any others in the struggle for National preferment.

There were other peculiarities in the life of this celebrated advocate which seem so strange as belonging to one who possessed the very attributes which call forth their splendor and magnificence. One was that he never, in all his brilliant career, delivered an address that could be regarded as a strictly public one, nor did he make so-called political speeches. It is doubtful if this could be said of any of his contemporaries.

Mr. Beach's specialty was criminal law, the incipency of the knowledge of which was, in a great degree, acquired while he was District Attorney of Saratoga County, where the majority of his cases were those of a criminal nature. In the trial of these he was, of course, confronted by the best legal talent in the State. Trained in that school by four years of hard work, he not only developed his power of "sifting the evidence," but it also brought out his forensic talent, which ever after was the light of his great reputation.

His oratory was of that class which is only born. It came spontaneously from him like the clear stream from the rock in some mountain gorge; pure in its diction, sweet in its intonation and irresistible in the force of its argument. To write a speech, for him was a failure. It

is recorded that he never attempted it but once, ever afterward relying upon the natural flow of language he possessed and the power of his gifted mind to array the facts of his case before a jury. This kind of oratory is seldom bestowed by kind Nature; few are they who can invoke the glow and brilliancy of words that entrance an audience extemporaneously. Careful preparation mark the great speeches of the century, as an investigation will discover.

But it must not be inferred that because this eminent lawyer was rarely gifted to speak to the passions and sympathies of "twelve men in a box," that he was not a most devoted student in the cause of his client. He never came into court without the most careful preparation. The only thing he could afford to dispense with was the labor, which many great advocates are compelled to assume, of writing out and committing to memory the address to the jury.

Fortunately for Mr. Beach he was able to study his profession in his youth without the grim spectre of poverty overshadowing the flame of his midnight lamp, as has been the case with many of our prominent lawyers, but which has been said by a great judge to be essential to the development of extraordinary legal talents. When young Beach's term of reading was completed he at once entered upon the practice without the pangs of starvation staring him in the face, although no client came immediately to consult him, perhaps.

The remarkable command of language which Mr. Beach possessed to such a degree that he may be regarded as a marvel in this particular, was not altogether due to inborn genius; continuity of thought is a gift in oratory, but the vocabulary can only come by severe study. Besides the excellent training and, perhaps, curious discipline exacted by the father, Mr. Beach's mother was a woman of rare intellectual gifts, and to the gentle

guidance of her in the selection of what studies he should pursue in the training for the vocation he was to pursue in the particular of oratory, great credit is due. It was she who placed in his hands such works as tables of synonyms and those which gave the nice differences of words, which he ever afterward cultivated, like Rufus Choate, until, like him, too, he possessed a vocabulary exceeded by but few men in the history of letters.

Added to the charm of his oratory was a figure and physique that equally attracted his auditors; a combination, which, when possessed by the individual, completes the sphere of his enchantment and the enthusiasm he invokes. Some orators demand an occasion to inspire them, and rare, indeed, are they who can become eloquent without this incentive. With Mr. Beach it was a matter of indifference. He could talk as sweetly to the echoing groves, with no other auditors than the dumb creatures around him, as he could in the crowded court room, with a surging mass of people hanging with breathless interest on every word that he uttered.

As a jury lawyer Mr. Beach was unsurpassed. The record of his legal life will disclose the fact that he was engaged in more suits and a greater diversity of causes than any of the other great lawyers who were contemporary. Many of them were his superior in scholastic attainments, for he himself admitted that his education in the domain of history, the sciences and the classics had been sadly neglected, all of his desultory reading having been confined to what is termed of the light order. But when before a jury he had but few peers.

Until he had arrived at the age of forty-two he remained a citizen of Saratoga, his birthplace. Then he removed to Troy, in the same state, where he entered into a partnership with two other noted advocates, the firm title being Pierson, Beach & Smith. This firm was a famous one and did a large business, extending over a

greater portion of the State. In 1870 Mr. Beach removed to New York City, associating himself with the firm of Beach & Brown, Mr. Beach taking the place of Charles A. Rapallo who had just been elected Judge of the Court of Common Pleas. The members were himself, his son and Augustus C. Brown, Judge Rapallo's partner up to the time of his elevation to the Bench. In the metropolis of the country Mr. Beach at once took a position at the head of his profession, for he was now engaged on one side or the other of the most prominent cases in the courts; cases of national fame involving immense sums of money.

Among the many cases in which Mr. Beach was engaged the following are the most prominent: The Commodore Vanderbilt will case; the celebrated Brinkley vs. Brinkley divorce case; counsel for George G. Barnard, who was tried on articles of impeachment, as Justice of the Supreme Court of New York; the People vs. Edward S. Stokes, for the murder of James Fisk, Jr.; he was also counsel in the Beecher-Tilton trial. In this latter some of the most eminent advocates were associated with him. Mr. Beach was also counsel in the case of Bowen vs. Chase; and he was for the defendant in the famous Maggie Jordan case. His last criminal case was defending Jesse Billings, the alleged murderer of his wife.

The following is an extract from his address to the jury in the Brinkley divorce case:

"Evidence of marriage! May it please your honor, what is evidence of marriage? Why, living together, may it please your honor; cohabiting together, may it please your honor; introducing each other as man and wife; walking in the sacred relations as such; rearing up children together, may it please your honor; that going down into the valley of the shadow of death that a wife assumes in such relations. And for all these they were married. They were married when he enjoyed the

bloom of her youth and loving tenderness; married when he drank deep of her heart's young affections; married when it flattered his fancy to control her beauty. But when we come to that after-stage of life, where the fire and fervor fade from the eye, and age comes stealing over the features and dims their brightness, when, of all times, marriage is to life most sacred, when they should be leading each other hand in hand down the western slope of life's steep hill to rest together at its foot in a long repose, just as they entered on that sacred journey, then it is that this monster of humanity seeks to cast her off and bastardize her children! Not married! Not married! Who then is married?"

The following extract is taken from the argument of Mr. Beach, in reply to Mr. Evarts, when the question was raised as to the competency of Theodore Tilton, the plaintiff, to appear as a witness in the celebrated Beecher-Tilton case:

"Sir, in answer to the illustrations of my learned friend, and to meet the practical issues presented by his argument, permit me to follow him in an illustration. I imagine, sir, a happy, an honored and a cultured home. The wife a frail, feeble and delicate woman, eminently devotional and pious in all her impulses, and, as has been shown in this case, and will be shown hereafter, devoted to the husband of her early choice, and the father of her children.

"She had a pastor learned and eminent; gifted beyond his fellows. One who stood at the very head of his honored and sacred profession; one whose words were listened to with deference and acceptance. Ah! sir, he had those qualities of mind and heart, he had that persuasive power of eloquence, that insidious and silvered tongue which would lure an angel from its paradise. He was her accepted and chosen teacher and guide. She looked up to him with a veneration second

only to that with which she regarded her God. Nay, if the incarnate Christ had come down, with the glory of Calvary upon his brow, and the love of sacrifice in his eye, she could not have bowed to him with more obedience and idolatrous deference than this woman rendered to her pastor and her earthly god.

"From her childhood, sir, she was under his teaching and dominion. He was almost an inmate of her home. In the confidence of a husband and a friend, a pupil of this aged and venerable and gifted man, he was welcomed with trust and affection. He exerted upon this wife, sir, all his arts, his specious wisdom, his prayerful devotion. All the efforts of his gifted nature were banded to the seduction of this happy and beloved wife and mother, and she fell. And do you wonder, sir? Is she to be blamed for the act? Is this a prosecution of her? Is the action brought by her wronged husband an action against her for her condemnation? Oh, no, sir!

"Consider how strong he was, and how weak she was. Consider how submissive she was to his teachings, and imagine with what a specious and insidious tongue he propounded to her the theory that fornication was but a natural expression of love! He taught her to believe in pious adultery. By slow but by steady steps he led her along upon frail paths to the precipice from which she fell. The seducer is brought into a court of justice to answer for his crime. Husband wronged, seducer guilty, stand before the immaculate justice of the law to answer for the deeds done in respect to this woman. And we are told, sir,—should be told, sir, in such a case, according to the logic of my learned friend—that this aged and venerable and gifted seducer may take the stand and polish and apologize for his guilt, and present all the defenses of his practiced and learned ingenuity, and that the husband must be still and silent, and that this is the law; the law, which is no respecter of

persons, which holds out steady and even justice to litigants before it. And with all the sophistry of his great powers my learned friend subsidizes them to establish that doctrine of injustice and wrong. I say again, sir, that before your honor will adopt any such conclusion, before you will approve of any such doctrine you must be driven to it by the force of irresistible logic. Thank God, there is, in my belief, no such rule in the law of this State! There is no such injustice in the policy of our legislation."

The closing of Mr. Beach, in this remarkable trial reached sublimity of language and thought: "We have stood together before this community, animated by a common object, seeking after the right in honest sincerity. The distempered plea of turbulent passions has been against the altar at which we serve. The boisterous interests and sympathies of an interested people have tried the firm foundation of this temple, but the spirit of justice sees nothing of the tumult, hears nothing of the uproar. Calm and confident, she leans trustingly upon a juror's oath. Your consciences uphold the shaking temple and the tottering altar. If they weaken and fail, if the strong pillars of honesty and truth give way, temple and altar and God sink to a common ruin. The struggle this day is between the law and a great character and a great church. If the latter triumph and the law is trodden down, woe unto him who calls evil good and good evil. No man venerates more profoundly than myself the magnificent genius of this defendant. His large contributions to the literature of the times excite the sentiment of which Macaulay spoke in his essay on the life of Bacon. Rich as he is in mental endowments, prodigal as his labors have been, they can shelter no offense against the law.

"Genius as lofty, learning more rare and profound, could not save Bacon. He sinned and fell. Upon his memory history has written the epitaph, 'The greatest

and the meanest of mankind.' Toward great men in disgrace, like those who fall, Whittier, New England's gifted poet, writes in his poem entitled 'Ichabod'

'So fallen! so lost! the light withdrawn  
Which once he wore!  
The glory from his gray hairs gone  
Forevermore!

\* \* \* \* \*

"Gentlemen, I commit this case to you in the sublime language of the great orator who speaks to you from his grave at Marshfield: 'With conscience satisfied with the discharge of duty no consequences can harm you. There is no evil that we cannot either face or fly from but the consciousness of duty disregarded. It is omnipresent like the Deity. If we take to ourselves the wings of the morning and dwell in the uttermost parts of the earth, duty performed or duty violated is still with us for our happiness or misery, and if we say darkness shall cover us, in darkness as in the light our obligations are yet with us. We cannot escape their power nor fly from their presence. They are with us in this life, will be with us at its close, and in that sense inconceivable solemnity which lies yet further onward, we shall still find ourselves surrounded by the consciousness of duty to pain us wherever it has been violated, and to console us so far as God may have given us grace to perform it.'"

Mr. Beach's portrait will convey to the mind of the reader the exceptionally perfect physique of which he was possessed, and gentlemanly courtesy for which he was noted. Of course, the magnificence of his voice is known only to those who have heard him, and the individuality of the man to those who were nearest to him in his companionship. He died in June, 1884, and it is safe to say that long years will roll by before his place will be filled at the American Bar in all the essentials that made him a great lawyer.





*C. P. Benjamin*

## JUDAH PHILIP BENJAMIN.

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THIS eminent lawyer of two countries the United States and England, was born on the island of St. Croix, one of the West Indies group, in 1811. His parents were Jews of English nationality, who sailed from London the year of the birth of their distinguished son, their destination New Orleans, where they intended to establish their permanent home, but the English fleet having blockaded that port, the vessel on which they had sailed, put in to St. Croix, and there the subject of this sketch first saw the light, and there he lived with his parents for nearly four years. In 1815 they moved to Wilmington, North Carolina, where the future great lawyer passed the years of his boyhood, and when but fourteen, he entered Yale College remaining there until 1828, three years, and left without graduating.

Early in 1832, he went to New Orleans, entered an attorney's office, and on the 16th of December of the same year was admitted to the practice of the law. While he was a student, he taught and compiled a digest of the cases decided in the local court, and this his first legal work, was only intended for his own private use, but he loaned it to other attorneys and its great utility thus becoming known he enlarged it, and in connection with his friend Thomas Slidell, published it in the year 1834, under the title of "A Digest of Reported Decisions of the Supreme Court of the late Territory of Orleans, and of the Supreme Court of Louisiana." This work was the first collection of the peculiarly complicated law of New

Orleans, derived from Roman, Spanish, French and English sources, and to his early study of this composite body of law he owed that remarkable knowledge of different juristic systems, which, in his later years, made him such a distinguished legal light and authority in England.

In New Orleans, in 1840, the famous legal firm of Slidell, Benjamin & Conrad was established, which immediately entered upon an immense practice, netting the members, for many successive years, more than \$20,000 each, an almost phenomenal income in those days. The leading business of the firm was the causes of the cotton merchants and those of the large planters. At one time during the early days of the existence of the firm, Mr. Benjamin was principal counsel in a case where insurance was claimed, arising from an insurrection of slaves while on board the vessel. It is known to the history of the law in this country as the "Creole Case," and it excited great interest, was printed and widely circulated because of the powerful argument by Mr. Benjamin it contained.

In 1847 the United States appointed a commission to investigate the Spanish land titles under which the early speculators in California claimed the land, and in this important research Mr. Benjamin was retained as counsel, with a fee of \$25,000. He was absent a year on this commission, at the end of which time he returned to New Orleans and was admitted counselor of the Supreme Court of the United States, and from that period his business was chiefly arguing causes before that august tribunal.

It was now that he began to take an active interest in the politics of the nation. For all his life he had been an ardent Whig, but when, in the early fifties, that old party was disrupted, he affiliated with the Democrats. He was elected to the United States Senate in 1852 and

re-elected in 1857, having for his colleague John Slidell. In the Senate Mr. Benjamin made a profound impression. Charles Sumner, his constant political opponent, regarded him as the most eloquent speaker in that body, and Sir George Cornewall Lewis, who was present and heard his remarkable address, on the 31st of December, 1860, in which he justified the right of the states to secede, and declared his adhesion to the cause of the Southern Confederacy, said, "It is better than our Benjamin (referring to Disraeli) could have done."

In recognition of his admirable legal talents, President Franklin Pierce offered Mr. Benjamin the position of Associate Justice on the Supreme Bench of the United States, but great as the honor and dignity were, he respectfully declined, preferring to remain in the practice of the profession, or for the reason that he had already decided to abandon the law for the more exciting domain of politics.

When South Carolina passed the ordinance of secession he chose to cast his lot with the South. He made several brilliant speeches in the Senate on Constitutional questions from his stand point, defending "State Rights" on legal grounds, and on the 4th of February, 1861, he withdrew from his place in the Senate and, fearing arrest, hastily left Washington. When the provisional government of the Southern Confederacy was formed, Mr. Benjamin was appointed a cabinet officer holding the portfolio of the department of justice. Jefferson Davis, in his "Rise and Fall of the Confederate Government," says of him at that juncture: "Mr. Benjamin, of Louisiana, had a very high reputation as a lawyer and my acquaintance with him in the Senate had impressed me with the lucidity of his intellect, his systematic habits and capacity for labor."

In August, he was transferred from the department of justice, of the Confederate States, to that of war, in which office he continued until the reconstruction of the

cabinet in February, 1862, when he became Secretary of State, where he remained until the final overthrow of the Confederacy. His exertions in the discharge of his official duties were so great as to almost break down even his iron strength. Beginning work at his office at eight o'clock in the morning, he often remained there for eighteen hours, hard at his labors with only a few moments respite for meals. He had the reputation of being "the brains of the Confederacy", and Mr. Davis, it is alleged, fell into the habit of putting upon Mr. Benjamin all the matter that did not obviously belong to some other department. In an English sketch of his life, referring to that portion which relates to the part he took in the administration of the affairs, it says: "The autocratic character of Mr. Davis' government, and the secrecy often observed in the debates of the House of Representatives, render it doubtful how far Mr. Benjamin was responsible for the many arbitrary measures which marked the conduct of the war by the Confederates." In spite of the high opinion that Mr. Davis had formed of him, some of his measures were sharply opposed in the Congress, and the severe criticism evoked by his conscription law led to his resignation as Secretary of War in 1862. When he, in 1864, was Secretary of State, Gen. Johnston declared that the Confederate cause could never succeed so long as he remained minister.

On the collapse of the Confederate Government, Mr. Benjamin fled from Richmond and his adventures, which are briefly quoted from authentic Confederate sources, of his "escape to England were of a most romantic nature." "Mr. Davis departed from Richmond after the news of Lee's surrender at Appomattox Court House, accompanied by the members of his cabinet. On leaving Greensborough, North Carolina, on the 12th of April, 1865, Mr. Benjamin, to whom corpulence had made riding rather difficult, insisted that an ambulance should be found for

him, and in this he rode with his brother-in-law, M. Jules St. Martin and General Cooper. The roads were in very bad condition and the conveyance often stuck fast in mud-holes and fell behind the rest of the train. The roads getting worse he rode on a tall horse from Abbeville, in South Carolina, to the other side of the Savannah river, and then, unable to ride further or scenting danger from so large a party, he, on the 4th of May, 1865, made for the sea coast, intending," says Mr. Davis, "to make his way by Cuba to Mexico and thence to Texas, to join me, wherever, with such troops as might be assembled, I should be at the anticipated time and still hopeful that it might be a more successful struggle in the future." He carried with him an army certificate and free pass to all Confederate officers certifying him a French subject, and it was agreed that if he fell in with any Federal troops, he was to keep up the deception by using French which language he spoke like a native. Ill luck pursued him. He escaped from the coast of Florida in a leaky open boat, sailed thence in a vessel laden with sponges for Nassau, and after being wrecked on the way was picked up by a British man-of-war and carried into Saint Thomas. The steamer in which he sailed thence for England caught fire and had to put back. By this time the final collapse of the Confederacy was known and Mr. Benjamin went into exile. He landed in Liverpool almost penniless, and with the exception of a small sum of under fifteen thousand dollars remitted to England, all his fortune was lost or confiscated.

Arriving in London, he claimed to be a British subject and was thus recognized fifty-five years after his birth, as is attested by a statement in his own handwriting in the books of Lincoln's Inn. He at once entered as a student of English law in the pupil-room of Mr. Charles Pollock at Lincoln's Inn, but the kindly interference of Lords Chief Justices Giffard and Turner, Vice-Chancellor

Page Wood and Sir Fitzroy Kelly procured him a dispensation from the usual three years of studentship and he was admitted to the English Bar on the 6th of June, 1866, at the age of fifty-five. He immediately attached himself to the "Old Northern Circuit," where he was befriended by Messrs. Quain and Holkar, leaders of the Circuit, but for a time he received but little practice, his only clients for a long while being Messrs. Stone, Fletcher and Hull, who, through their London agents, introduced him to London work.

On the rendition of his first brief, Lord Justice Lush congratulated him but his misfortunes seemed to cling to him and he was compelled to resort to journalism to support himself. In 1868, appeared his great work on "The Contract of Sale," a veritable classic upon this branch of English law, "more scientific in its treatment and more clear and useful for the purposes of a practitioner than almost any other book." Its success was immediate both in England and in the United States a second and a third edition appearing; the last brought out in 1883, the revision of a portion of which was the final task in this direction of Mr. Benjamin's talents before his health broke down.

After the first appearance of his book, his practice increased enormously, he was already a "Palatine Silk for the county of Lancaster" and although he met a slight check by the refusal of his application for the rank of Queen's Counsel, when in January, 1872, a large number of juniors received "Silk", it was soon retrieved.

"A few months later, in arguing *Potter vs. Rankin* in the House of Lords, he so impressed Lord Hatherley that he shortly afterwards received a patent of precedence. It is said that owing to a scruple connected with his past career he refused to be sworn as a 'Queen's Counsel'. His patent, however, carried with it by courtesy the privileges of that rank. After a time he ceased to practice at *nisi*

*prius*, where, though his addresses to juries were very able, he failed in cross-examination and the general conduct and strategy of a case. His *forte* lay in argument, especially on colonial appeals before the Privy Council, where his great knowledge of systems of law other than the English gave him immense advantage over purely English lawyers. Henceforward he appeared before the courts sitting *in banc* or in equity cases and at length only took briefs below Privy Council and House of Lords on a special fee of one hundred guineas."

"He had a great faculty for argumentative statements and would put his case at once fairly and yet so that it seemed to admit of no reply. Naturally, he objected to being interrupted in court. Once in the House of Lords, so he told the story, he heard a noble lord, it is believed to have been Lord Cairns, on some proposition of his to ejaculate 'Nonsense!' Mr. Benjamin stopped, tied up his brief, bowed and retired; but the lords sent him a public conciliatory message and his junior was allowed to finish the argument. His power of stating his own case, probably was the cause of the very sanguine character of the opinions he gave on cases laid before him. Among his best known arguments are those in *Debenhan vs. Mellon*; *United States of America vs. Rae*; the *Franconia* case one of his rare appearances in a criminal court, and the *Tichborne* appeal to the House of Lords."

He was a great sufferer during the last years of his life from diabetes and weakness of the heart. In 1880, he fell from a street car in Paris, receiving such serious injury that two years later he was compelled, by the advice of his physicians, to give up all work, and so unexpected was this to him that he had to relinquish many cases, which he had engaged to try. His retirement from the practice was a source of unfeigned regret and he was entertained at a farewell banquet in the Hall of the Inner Temple, on the 30th of June, 1883, on which occasion he

said that in giving up his work he gave up the best part of his life and that at the English Bar he had never felt that any one looked upon him as an intruder. From that date his health failed rapidly and on the 6th of May, 1884, he died. By his will, made in April, 1883, he left a personality of three hundred thousand dollars. He left no memoirs as it was his invariable habit to destroy all private documents.

"In his habits of life he exhibited a great deal of the southern temperament, he was skillful at games and used to say that he 'loved to bask in the sun like a lizard.'" On compulsion he would work into the small hours, but he preferred to postpone his dinner until late so as to complete what he had to do before it, and he owned that to rise and work early in the morning was impossible to him. To the last he retained his loyalty to the lost cause of the Southern Confederacy, and was always bountiful to those whom he met who had suffered for it.







*J. S. Block*

## JEREMIAH SULLIVAN BLACK.

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THIS distinguished jurist was born on his father's farm in a locality known as "Pleasant Glades" in Somerset County, Pennsylvania. His immediate ancestors were Scotch-Irish and German, whose graves may be seen in the old churchyard near where they originally settled on their arrival in America. His mother, Mary Sullivan, was the daughter of a revolutionary soldier who was from Ireland and who married a German girl at York. After the war had ended, the Captain settled on a farm in Somerset County which was called "Rural Felicity," and where Judge Black, passed many happy days of his childhood, at this pleasant home of his grandparents. Judge Black's father was a very prominent man in his county, having been a Justice of the Peace and County Judge for twenty years, besides serving in the Legislature and in the Lower House of Congress.

Judge Black's education commenced in the country schools of his neighborhood and ended, so far as teachers were concerned, at a classical school in Brownsville, in Fayette County. Thenceforth he was a most indefatigable student; it required no great mental effort to retain whole pages of what he had studied, and his love for intellectual pursuits was marvelous. He was especially fond of Latin, though he was equally as assiduous in other branches he took up, realizing that he must very soon commence the struggle of life for himself as his father's financial condition precluded any other course than hard work for his brilliant son.

At the age of seventeen, he was a remarkably bright scholar, to which mental condition he had brought himself by a system of education purely his own, as he had been his own tutor, but he had never gone into any of the studies haphazard. He consulted the educated men he met everywhere and drew from their store of knowledge an idea of what he should read, and when full of doubts as to some particular point, by conversations would clear them up. At this early age, he entered the law office of Mr. Chauncey Forward, as well prepared by a course of general reading and studies as any college graduate, for he had been a most omnivorous devourer of books; had read everything in his father's and grandfather's libraries, which were relatively well supplied for that era. Mr. Forward, under whose direction young Black read law, was one of the foremost advocates in the State and a distinguished politician in the Democratic party; it was natural, therefore, that the student should become impressed with the importance of the great public questions which he had heard discussed so ably in the office where he was fitting himself for the Bar. This resulted in his commencement of that course of promiscuous writing for which Judge Black, through a long series of years, industriously kept up, contributing to many of the best magazines and other periodicals of the age in which he lived, articles upon current topics and the absorbing subjects of the day. His earliest effusions in these particulars were of such sound judgment and logic that they attracted immediate attention.

Like the experience which all young law students can recall, the immense amount of matter he discovered that he must accumulate to become "learned in the law" almost staggered even his brilliant mind but, like others who have the determination and the industry which the task requires, he soon became master of the general principles of his chosen profession, and thereafter it was plain

sailing for one with a mind constructed upon such a basis of logic as he possessed. He was admitted to the Bar in 1831 before he had attained his majority, and his preceptor, Mr. Forward, having been elected to Congress, he turned over to the young advocate all his immense business, such perfect confidence did he have in the ability of his student.

For eleven years Judge Black enjoyed a remarkably lucrative practice, at the end of which time, he was appointed judge of the district in which he had been born and reared, previously serving as Deputy Attorney General of his county, in which capacity he was kept busily engaged before the courts, and his reputation all the time increasing in a wonderful ratio, not for his oratory or persuasiveness before a jury, but for the depth of his legal knowledge, his uprightness of character and his unswerving devotion to the causes of his clients, consequently he very shortly assumed his proper place at the head of the Bar in the State.

In 1851, he was elected by the Democrats to the Supreme Bench of the State; this was the first election held under a constitutional amendment, adopted the year before and he became Chief Justice by drawing the short term, which plan was resorted to to determine, in that first election, who should fill that position. In three years his term as Chief Justice having expired, he was elected an Associate, notwithstanding the head of the State ticket was carried by the opposition party. Of Judge Black's opinions while on the Supreme Bench of Pennsylvania, there is but one verdict. In Mr. Blaine's "Twenty Years of Congress", he says: "The judicial literature of the English tongue may be searched in vain for better models than are found in the opinions of Judge Black, when he sat and was worthy to sit, as the associate of John Bannister Gibson on the Supreme Bench of Pennsylvania." Honorable James H. Hopkins said: "\* \* But in a comparison

of jurists, the Commonwealth of Pennsylvania can boastfully point to Gibson and Black and ask the entire Nation to produce their peers. I do not propose to analyze Judge Black's judicial character nor to present a catalogue of his legal opinions. Every English speaking lawyer knows how much he has contributed to the purity and power and nobleness of our jurisprudence. He has erected his own immortal monument, and in every forum is his cenotaph cherished and honored by the profession he loved and adorned."

In March, 1857, when James Buchanan, of Pennsylvania, became President of the United States, Judge Black was called to his Cabinet as Attorney General. He at once loomed up as the most conspicuous in the coterie of eminent men the President had summoned to his counsel. While at the head of the Department of Justice, in connection with Edwin M. Stanton, Attorney General Black saved to the United States Government more than one hundred and fifty million of dollars in so-called "California Land Claims," most of which had passed the lower courts in favor of the fraudulent claimants, but the nature of their villainy was exposed by the Attorney General before the Supreme Court at Washington and the land reverted to the Government, to which it rightfully belonged.

In 1861, when the Nation was disturbed and thrown into an almost chaotic condition by the acts of the Secessionists, Attorney General Black took decided views against those of the President in relation to the right of a state under the Constitution to leave the Union. The President argued that there was no authority under the organic law of the land by which he could coerce a state to remain in the Union if it chose to withdraw and set up an independent government. The Attorney General, however, as the legal adviser of the administration, upon this most important question of the right of a state to secede, was not the least vacillating or perfunctory; he stated most

emphatically that it was the duty of the Government "To put down insurrection anywhere and everywhere, under whatever plea or pretense it might be attempted to be justified, and that the Constitution contained no provision for a dissolution of the Union by secession or in any other wise." It is asserted by those who know, that "Judge Black was mainly instrumental in saving the Government from absolute disruption and falling into the hands of the Secessionists through the weakness of the President."

Before his retirement, President Buchanan, in February, 1861, appointed Judge Black Associate Justice of the Supreme Court of the United States but in consequence of so many resignations of the Southern Senators and the opposition of others of the North, the nomination was never acted upon and it died by constitutional limitation.

When Abraham Lincoln succeeded to the Presidency, Judge Black was appointed Reporter of the Supreme Court of the United States; during his occupancy of this office he published two volumes and then resigned to take care of his very large practice. Judge Black was counsel for President Andrew Johnson in the celebrated trial of that dignitary on articles of Impeachment; counsel for Secretary of War Belknap charged with corruption in office; he was also counsel for Samuel J. Tilden before the Electoral Commission; in 1872 was delegate-at-large to the Convention to reform the Constitution of Pennsylvania and was the most conspicuous figure in it.

Judge Black died at his home on the 19th of August, 1883. He was a devout Christian, and almost his last words were those of that simple and sublime prayer, which was given to the world on the occasion of the obituary notices of the great man in the daily press: "O Thou beloved and most merciful Father, from Whom I had my being and in Whom I ever trusted, grant, if it be Thy will, that I no longer suffer this agony, and that I may be

speedily called home to Thee, and O God, bless and comfort this my Mary."

Of the many eulogies pronounced, we here present one or two, delivered by those who knew Judge Black intimately, which assure us of the character and worth of the man as only a life long acquaintance can. John Randolph Tucker said of him: "If I comprehend Judge Black, and I think we agreed in this, the *principium* of his political and judicial thought was the divinely vested liberty of the man. Government was ordained of God for man, man was not made for the government. To secure this right is the only legitimate function of government; every government which denies or violates this right perverts its power and is a usurpation. To the rude latin of *Magna Charta*, to the foundation principles of the Norman-Saxon Constitution of our fatherland, to that bundle of institutional liberties which our fathers bound up in the venerable Constitution of 1789, Judge Black ever appealed, with a magnetic eloquence which thrilled the hearts of English speaking men everywhere, to protect the liberty of the man from lawless authority and to rescue him from the mailed hand of military despotism. His argument in Milligan's case stands as an enduring monument of his genius and his courage in making the *habeas corpus* an impenetrable shield against all the weapons of civil and military power.

"But he found it needful to these personal rights that the local autonomy of each State should be secured from the centralizing tendencies of the Federal Government. Jealousy of all power, political and corporate, which threatened to abridge the freedom of the man, was the motive force in Judge Black's life as a jurist and statesman. To protect the man from the ill-used or ill-gotten power of government and corporations and associations, to protect the States against Federal encroachment, these were the cardinal principles which guided his political

and judicial life. In the consistent maintenance of these cherished convictions, Judge Black was fearless and aggressive. His trenchant pen, his burning eloquence, his compact logic, lighted by his wit and humor, sparkling to delight his friends and blazing to terrify his foes, his keen irony, his caustic sarcasm, his searching satire and his fierce invective made him foremost among the writers and advocates of his day."

J. Hubley Ashley, of Washington, said of Judge Black: "That he belonged to a giant race of lawyers now almost if not quite extinct; that many of his judgments from the bench, equal in directness, force and elegance of style, the best judicial writing in the literature of our jurisprudence; that he was the greatest advocate, at the bar, this country has had since Pinckney; that his diction was richer than Macaulay's and more brilliant than that of Junius; that his speech and thought often recall the sagacity of Montaigne and the humor of Rabelais; that he was a patriot minister of state who stood by his country when others faltered, in the darkest hour of its history; that he would have gone to the block as cheerfully as any man that ever lived for any opinion he held dear. These are well known and now, I believe, generally conceded facts in the life and character of Judge Black. But all do not know so well, for those who came closely in contact with him alone could know how ingenuous he was in all his personal relations, how unselfish in his kindness how cheerful and cordial in his intercourse with friends, how genial, gentle and unpretentious in his manner, how original and unaffected in all his ways and in all his words. His nature was not spoiled by his great reputation. The sweet sensibilities of his heart were not touched by the corroding or the chilling influences of public life. His great manhood stood by him to the last, and he died as he had lived, a simple, direct and earnest man."

Judge Black's argument in the Milligan case on the right of trial by jury is presented partially here to indicate the style and logic of the great advocate's appeal to the Court: " \* \* \* \* I do not assert that the jury trial is an infallible mode of ascertaining truth. Like everything human, it has its imperfections. I only say that it is the best protection for human innocence, and the surest mode of punishing guilt that has yet been discovered. It has borne the test of a longer experience, and borne it better than any other legal institution that ever existed among men. England owes more of her freedom, her grandeur and her prosperity to that than to all other causes put together; it has had the approbation not only of those who lived under it, but of great thinkers who looked at it calmly from a distance, and judged it impartially. Montesquieu and de Tocqueville speak of it with an admiration as rapturous as Coke and Blackstone. Within the present century, the most enlightened States of Continental Europe have transplanted it into their countries, and no people ever adopted; once and were afterward willing to part with it. It was only in 1830 that an interference with it in Belgium provoked a successful insurrection which permanently divided one kingdom into two. In the same year, the revolution of the Barriades gave the right of trial by jury to every Frenchman.

"Those colonists of this country who came from the British Islands brought this institution with them and they regarded it as the most precious part of their inheritance. The immigrants, from other places where trial by jury did not exist, became equally attached to it as soon as they understood what it was. An attempt was made to set it aside and substitute military trials in its place by Lord Dunmore, in Virginia, and General Gage, in Massachusetts, accompanied with the excuse which has been repeated so often in late days, namely, that rebellion had made it necessary, but it excited intense pop-

ular anger, and every colony, from New Hampshire to Georgia, made common cause with the two whose rights had been especially invaded. Subsequently, the Continental Congress thundered it into the ear of the world as an unendurable outrage sufficient to justify universal insurrection against the authority of the Government which had allowed it to be done.

"If the men who fought out our Revolutionary contest, when they came to frame a Government for themselves and their posterity had failed to insert a provision making the trial by jury perpetual and universal, they would have covered themselves all over with infamy as with a garment, for they would have proved themselves basely recreant to the principles of that very liberty of which they professed to be the special champions. But they were guilty of no such treachery. They not only took care of the trial by jury, but they regulated every step to be taken in a criminal trial. They knew very well that no people could be free under a government which had the power to punish without restraint. Hamilton expressed in the 'Federalist' the universal sentiment of his time when he said that the arbitrary power of conviction and punishment for pretended offenses had been the great engine of despotism in all ages and all countries. The existence of such a power is utterly incompatible with freedom. The difference between a master and his slave consists only in this: that the master holds the lash in his hands and he may use it without legal restraint, while the naked back of the slave is bound to take whatever is laid on it.

" \* \* \* I prove my right to a trial by a jury just as I would prove my title to an estate if I held in my hand a solemn deed conveying it to me, coupled with undeniable evidence of long and undisturbed possession under and according to the deed. There is the charter by which we claim to hold it. It is called the Constitution of the

United States, it is signed by the sacred name of George Washington and by thirty-nine other names only less illustrious than his. They represented every independent State then upon this Continent and each State afterward ratified their work by a separate convention of its own people. Every State that subsequently came in acknowledged that this was the great standard by which their rights were to be measured. Every man that ever held office in this country, from that time to this, has taken an oath that he would support and sustain it through good report and through evil. The Attorney General himself became a party to the instrument when he laid his hand upon the Gospel of God and solemnly swore that he would give to me and every other citizen the full benefit of all it contains.

“ \* \* \* The power exercised through those military commissions is not only unregulated by law, but it is incapable of being so regulated. What is it that you claim, Mr. Attorney? I will give you a definition, the correctness of which you will not attempt to gainsay. You assert the right of the Executive Government without the intervention of the judiciary, to capture, imprison and kill any person to whom that Government or its paid dependents may choose to impute an offense. This, in its very essence, is despotic and lawless. It is never claimed or tolerated except by those governments which deny the restraints of all law. It has been exercised by the great and small oppressors of mankind ever since the days of Nimrod. It operates in different ways; the tools it uses are not always the same; it hides its hideous features under many disguises; it assumes every variety of form;

‘It can change shapes with Proteus for advantages,  
And set the murderous Machiavel to school.’

But in all its mutations of outward appearance, it is still identical in principle, object and origin. It is always the same great engine of despotism which Hamilton de-

scribed it to be. Under the old French monarchy, the favorite fashion of it was a *letter de cachet*, signed by the king, and this would consign the party to a loathsome dungeon until he died, forgotten by all the world. An imperial *ukase* will answer the same purpose in Russia; the most faithful subject of that amiable autocracy may lie down in the evening to dream of his future prosperity, and before daybreak he will find himself between two dragoons on his way to the mines of Siberia. In Turkey, the verbal order of the Sultan or any of his powerful favorites will cause a man to be tied up in a sack and cast into the Bosphorus. Nero accused Peter and Paul of spreading a 'pestilent superstition,' which they called the Gospel. He heard their defense in person and sent them to the cross. Afterward he tried the whole Christian church in one body, on a charge of setting fire to the city, and he convicted them, though he knew not only that they were innocent, but that he himself had committed the crime. The judgment was followed by instant execution; he let loose the Prætorian guards upon men, women and children, to drown, butcher and burn them. Herod saw fit, for good political reasons, closely affecting the permanence of his reign in Judea, to punish certain *possible* traitors in Bethlehem by anticipation. This required the death of all the children in that city under two years of age. He issued his 'general order'; and his provost-marshal carried it out with so much alacrity and zeal, that in one day the whole land was filled with mourning and lamentation.

"Macbeth understood the whole philosophy of the subject. He was an unlimited monarch; his power to punish for any offense or for no offense at all was as broad as that which the Attorney General claims for himself and his brother officers under the United States, but he was more cautious how he used it. He had a dangerous rival, from whom he apprehended the most serious

peril to the 'life of his government.' The necessity to get rid of him was plain enough, but he could not afford to shock the moral sense of the world by pleading political necessity for a murder. He must

'Mask the business from the common eye.'

Accordingly, he sent for two enterprising gentlemen, whom he took into his service upon liberal pay—'made love to their assistance'—and got them to deal with the accused party; he acted as his own judge advocate, he made a most elegant and stirring speech to persuade his agents that Banquo was their oppressor, and had 'held them so under fortune' that he ought to die for that alone. When they agreed that he was their enemy, then said the king:

'So is he mine, and though I *could*  
With *barefaced power* sweep him from my sight,  
And bid my *will* avouch it, yet I must not,  
For certain friends, who are both his and mine,  
Whose loves I may not drop.'

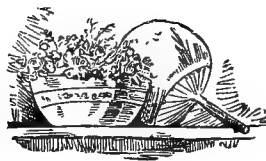
For these, and many weighty reasons besides, he thought it best to *commit* the execution of his design to a subordinate agency. The committee thus organized in Banquo's case sat upon him that very night, at a convenient place beside the road where it was known he would be traveling, and they did precisely what the Attorney General says the military may do in this country, they *took* and *killed* him, because their employer at the head of the government wanted it done, and paid them for doing it, out of the public treasury.

"But of all the persons that ever wielded this kind of power, the one who went directly to the purpose and object of it was Lola Montez. She reduced it to the elementary principle. In 1848, when she was minister and mistress to the king of Bavaria, she dictated all the measures of the government. The times were troublesome. All over Germany the spirit of rebellion was rising; every-

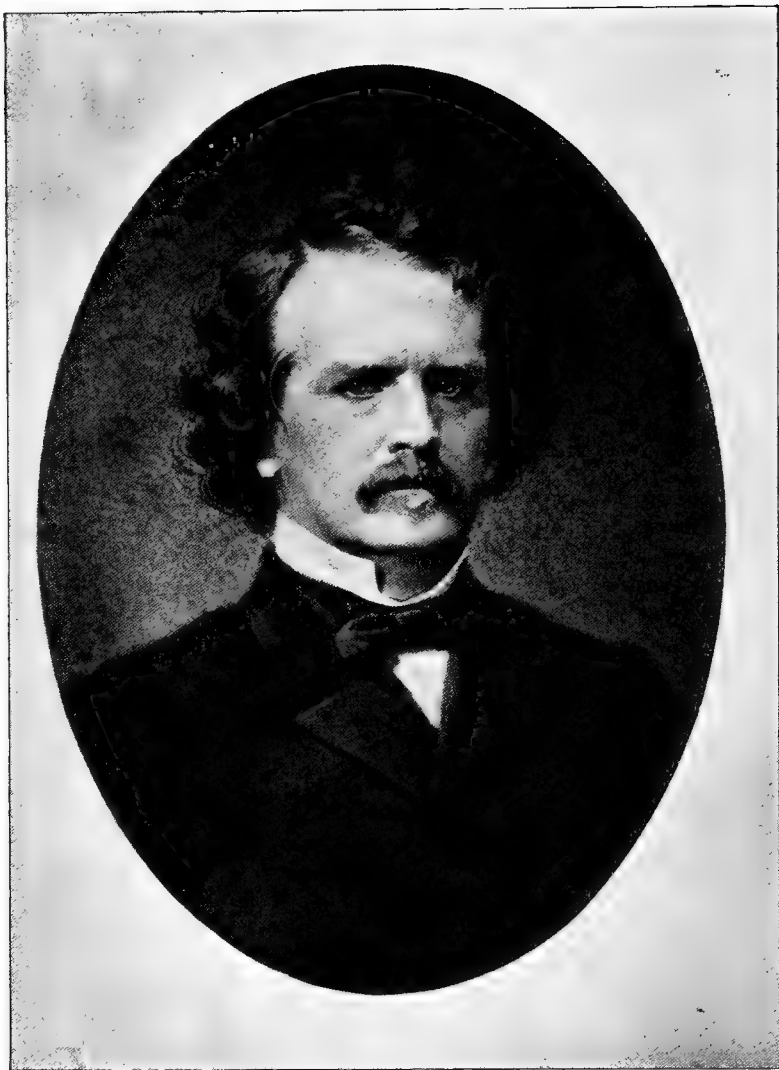
where the people wanted to see a first-class revolution, like that which had exploded in France. Many persons in Bavaria disliked to be governed so absolutely by a lady of the character which Lola Montez bore, and some of them were rash enough to say so. Of course, that was treason, and she went about to punish it in the simplest of all possible of ways. She bought herself a pack of English bull dogs, trained to tear the flesh, and mangle the limbs and lap the life-blood, and with these dogs at her heels, she marched up and down the streets of Munich with a most majestic tread, and with a sense of power which any judge advocate in America might envy. When she saw any person whom she chose to denounce for 'thwarting the government,' her obedient followers needed but a sign to make them spring at the throat of their victim. It gives me unspeakable pleasure to tell you the sequel. The people rose in their strength, smashed down the whole machinery of oppression, and drove out into the uttermost shame king, strumpet, dogs and all. From that time to this, neither man, woman nor beast has dared to worry or kill the people of Bavaria.

" \* \* \* If my learned friend, the Attorney General, had the right of domination over me, I should not be very much frightened, for I should expect him to use it as moderately as any man in all the world, but still I should feel the necessity of being very discreet. He might change in a short time. The thirst for blood is an appetite which grows by what it feeds upon. We cannot know him by present appearances. Robespierre resigned a country judgeship in early life because he was too tender-hearted to pronounce sentence of death upon a criminal. Caligula passed for a most amiable young gentleman before he was clothed with the imperial purple and for about eight months afterward. It was Trajan, I think, who said that absolute power would convert any man into a wild beast, whatever was the original benevolence

of his nature. If you decide that the Attorney General holds in his own hands, or shares with others, the power of life and death over us all, I mean to be very cautious in my intercourse with him, and I warn you, the judges whom I am now addressing, to do likewise. Trust not the gentleness and kindness which have always marked his behavior heretofore; keep your distance; be careful how you approach him, for you know not at what moment or by what trifle you may rouse the sleeping tiger. Remember the injunction of Scripture: 'Go not near to the man who hath power to kill; and if thou come unto him, see that thou make no fault, lest he take away thy life presently; for thou goest among snares and walkest upon the battlements of the city.'"







James V. Brody

## JAMES TOPHAM BRADY.

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THE immediate ancestors of James T. Brady were Irish, his father emigrating to the United States during the war of 1812. He was a gentleman, a scholar and a man of great ability, while his wife possessed rare personal beauty and purity of character. Upon his arrival in America, Mr. Brady instituted a school for boys in the City of New York, where, on the 9th of April, 1815, his eldest son, the subject of this sketch, was born.

Endowed with a vigorous constitution and great mental power from birth, he grew up a robust, hardy child and when very young, commenced his studies in his father's school. He was a remarkably bright scholar and beloved for his exceedingly amiable disposition, delighting in acts of kindness, never willingly inflicting suffering even upon the most insignificant insect; because of this trait he took no pleasure in hunting or fishing, as it involved, he argued, a needless sacrifice of life, which he could not brook for an instant. Notwithstanding the extreme gentleness of his nature, he possessed the characteristic bravery of his race and was as independent, yet withal, full of fun and fond of a joke.

His father abandoned school teaching and took to the practice of law before his brilliant son had completed his education, but Mr. Brady had determined himself to become an advocate, so he entered his father's office as a student and boy of all work. He quickly developed that bright, impromptu wit for which he became so famous, and devoted himself with all the earnestness of his studi-

ous nature to his books. Even when but a young student, his quickness at repartee brought on many an encounter with his elders around the office, but he was generally a match for any of them. His father moulded his son's character carefully, and under his loving but firm tuition, young Brady made such rapid progress in his studies, and became so proficient in the knowledge of the office routine that he relieved his father of an immense amount of drudgery, and by the time he had arrived at the age of sixteen, he was frequently the junior counsel in many of his father's cases.

In November, 1836, he was admitted to the bar, having attained his majority a few months previously. He was a faithful student, and although he was fond of pleasure, nothing could draw him from his books. He not only read law devotedly, but general literature in profusion, discarding all that which had not a basis of real knowledge, and thus he stored his susceptible mind with only the best authors in the domain of poetry, biography, fiction and history, never losing sight, during all his mental culture, of the apothegm of Lord Erskine, that, "No man can be a great advocate who is no lawyer." Consequently, when he commenced the practice of his profession, few lawyers of his day were so well grounded in the theories of the science as young Brady. While a student, he had his bed in the office and often sat up all night to master principles to which he was giving his thought. In this particular of hard, earnest study, he emulated the example of Napoleon, of whom it is said in his early youth: "So great was his ardor for intellectual improvement, that he considered every day as lost in which he had not made perceptible progress in knowledge. By this rigid mental discipline he acquired that wonderful power of concentration by which he was ever enabled to simplify subjects the most difficult and complicated." Naturally, his father was very proud of his brilliant boy,

and when he was nineteen years old, he said to a friend, who had been praising his son: "Yes, sir, he is a boy of great promise, a boy of splendid intellect and noble character. Young as he is, I regard him as a walking encyclopædia; his mind seems to gild everything he touches."

The first case of importance in which he was engaged, he had for his opponent, no less a legal giant than Charles O'Connor, who was eleven years his senior. It was an insurance suit, in which the plaintiff demanded a certain amount of money for property alleged to have been destroyed by fire. Young Brady was cognizant of the weakness of his case, and his brilliant adversary had no difficulty in winning the suit, yet Mr. Brady conducted his part so eloquently that his talents were recognized from that hour. He had the inevitable shock of timidity which comes to nearly all young advocates during their first appearance before a jury, and he says himself of this experience: "Everything around me grew black suddenly, and I could not even see the jury, but by steadying myself against the table and keeping my eyes in the direction of the jury, I continued to speak until I had recovered my self-control." Shortly afterwards, some newsboys were arrested for selling the *Sunday Morning News* on the streets on the morning of the Sabbath Day, on the complaint of a Mr. Girard. Suit was brought to determine the question whether they had any rights in the premises and Mr. Brady appeared for the newsboys, whom it was claimed, the law granted no privileges to sell papers on that day, and that they disturbed the people assembled in the churches by their cries. The suit created a great deal of excitement, and when the trial was called, the court room was packed to its utmost capacity. The judges decided against the newsboys, but the result was that Mr. Brady from that time forward had more business than he could attend to. The whole city was wild

over the eloquence he had displayed in the defense, and hundreds of those who were present at the trial, perfect strangers to the brilliant advocate, rushed up to him after he had concluded his speech, and overwhelmed him with congratulations. His fame was now established on a basis that nothing could undermine, and he took rank among the greatest lawyers at the Bar of New York.

Judge McKeon said of Mr. Brady in his remarks on his death, referring to this period of his appearance at the Bar: "We may refer to the time of his introduction to the Bar of this city as an epoch in its history. In looking back at the past, we see rising before us George Wood, treading with no uncertain step through the labyrinth of the law of real property; Daniel Lord following, with his legal eye, commerce over the long and dreary waste of waters; David Graham, the younger, and Ogden Hoffman, standing in full panoply of intellectual power before our criminal tribunals. Into these lists where stood these proud knights, young Brady sprang, ready to contend with the mightiest of them. How well he contended, many of you will remember, and the honors paid to his memory are justified by the triumphs he won."

Mr. Brady's popularity increased faster than his years, and cases came to him never before entrusted to such a young lawyer, and his practice began to reach out into other portions of the State, and he could be found following the Supreme Court, which held sessions at Albany, Utica and Rochester. Heretofore, the practice before this exalted tribunal was altogether in the hands of the old and experienced members of the Bar, men who had grown gray in the profession, and whose reputation had already been made through long years of service; and it was a mark of distinguished honor for one so youthful, both in the profession and in age, to hold a place with them before that great Court. In the great Goodyear India-Rubber suits, he won additional laurels, for not only was he as-

sociated with Daniel Webster, but that eminent lawyer said to Mr. Brady, after the latter had opened the case in a two days speech, and to the court, that his colleague had so exhausted the subject as to leave nothing for him to say, and then addressing himself to Mr. Brady: "You have cut a highway through this case, and if it is won, it will be because of the manner in which you have brought it before the court." The famous suit was won by Goodyear, and was tried at Trenton, New Jersey, before Justices Grier and Dickerson, of the United States Circuit Court. A story of Mr. Brady's strict integrity is told in connection with these India-Rubbersuits who upon being offered a salary of twenty-five thousand dollars a year for his natural life, if he adopted a certain course, said it was not according to his way of right, and he refused the tempting bait. In France, the case of the patents of the Goodyear inventions came up in the courts over there and Mr. Brady gave substantially all the points involved to the advocate of that country, Etienne Blanc.

His profound knowledge of the law in all of its branches, made it easier for him, perhaps, to master a case than the majority of lawyers; all that was necessary, seemingly, for him to know in a cause were the particulars, the application of the law was always at his tongue's end. In his treatment of witnesses, it depended upon the character of the witness himself, whether he was to be handled severely or the reverse; if there was any attempt at evasion of the truth, his wrath was terrible, but generally, if the witness were honest there was no attempt at bullying, and he always succeeded in getting the desired information by his courtesy and forbearance. A story is related of him that at one time, during the course of a trial, when a witness was evidently manufacturing his testimony, Mr. Brady gave the man a look which so discomfited him that he broke completely down and could not proceed with his evidence. Mr. Brady thereupon

changed his whole demeanor, kindly sent for a glass of water, proffered it to the witness, and so effectually soothed him that the man completely changed his tactics too, and told the truth from that moment, in a simple, straightforward manner.

In the trial of Baker for the murder of the notorious Bill Poole, the noted pugilist, Mr. Brady evinced that defense of the rights of his client, which was always bold, and positive as if he were maintaining those of his own. The murder was committed in New York City, at a time when *Know-Nothingism* was at its height and Poole's last words were: "I die an American," which caused his death to be regarded as a martyrdom in that cause. Public feeling was terribly wrought up, and in such a state of excitement, the murderer was placed on trial. The judge in his charge said things which were utterly outside of the record according to the opinion of Mr. Brady and an infringement of the rights of his client. The moment the judge had finished, Mr. Brady was on his feet, bristling all over with indignation, and he commenced: "You have charged the jury so and so," stating his objections to the words of the magistrate, "and I protest!" The judge replied that he would listen to the counsel's objections as soon as the jury had retired. "No!" thundered the indignant Mr. Brady, "I choose that the jury should hear my objections," and defying any interference, he poured his forty-five separate objections in words that no one could misunderstand which pretty effectually changed the impression upon the jury that the charge had made. But it was not alone upon his irresistible eloquence that Mr. Brady depended to win his cases; he worked as faithfully and as cautiously in every one of them as if he possessed no other power but the facts of the cause, and he detested all and everything that savored of trickery, but his power over a jury was something phenomenal, after all; he never lost sight of the fact that

to them must he pour out the influence of his mind, they must be made to think as he thought, to see as he did, which was the secret of his magnetic personality. Mr. Brady practiced law for thirty-four years, during which time he was counsel for fifty-one men who were tried for their lives, and he succeeded in saving them all from the gallows, or a long imprisonment worse than death.

In the course of his long career at the Bar, there was rarely a case of great magnitude before the courts of New York in which he did not appear; he was compelled to refuse as many, in all probability, as he accepted, for want of time to attend to them; yet he seldom refused to take time to defend some unfortunate individual who had neither money nor counsel. This noble characteristic was one of the brightest features of his whole life, he developed it in early boyhood, by which it endeared him to hundreds, who remained his fast friends for all time, and as he reached his manhood, it still shone more beautifully and grew with his old age. In these gratuitous services where he was saving some miserable wretch, his efforts and his eloquence were never greater in his most remunerative cases. In one of his memoirs, the following incident of this characteristic is found: "The case of a young man charged with murder, in what was claimed to be an accidental fracas, attracted a good deal of interest. He was a Mason and that Society applied to Mr. Brady to defend him, tendering him twenty-five hundred dollars as a fee, but for some cause he declined the case. Not long after, one afternoon, a neatly dressed, modest young girl came to the office and asked for Mr. Brady. Told to walk into his private office, she timidly approached his desk and saying: 'Mr. Brady, they are going to hang my brother, and you can save him. I've brought this money, please don't let my brother die,' burst into tears. It was a roll of two hundred and fifty dollars which the poor girl had begged in sums of five and ten. The kind

hearted man heard her story. "They shall not hang your brother, my child," said he and putting the roll of bills in an envelope, told her to take it to her mother and he would ask for it when he wanted it. "The boy was cleared."

For noble reasons of his own, Mr. Brady lived and died a bachelor, not that he lived the monastic life of the majority of bachelors by any means. He was the acknowledged head of a bright family of relations who looked up to him with all the love and devotedness of a father and this gave him ample scope for his domestic habits which he possessed in an eminent degree. Almost immediately after he had entered upon the practice of the law, his father and mother died leaving one other son and five daughters dependent upon Mr. Brady, who was much older than any of his family. He was at once imbued with the responsibility which had fallen to him, and he fitted himself for the burden most nobly. He determined that his sisters should not feel their loss, so far as their style of living was concerned, and he devoted himself with redoubled energy to his work; cutting down his own expenses to the minimum, in order that those who depended upon him should not suffer in the slightest for what they needed. To them always, he was the impersonation of generosity and brotherly affection, who returned his care and love as it deserved. To a friend who asked why he had never married, he replied: "When my father died he left five daughters who looked to me for support. All the affection which I could have had for a wife went out to those sisters and I have never desired to recall it."

Mr. Brady could have had great preferment in politics, in all probability, if he had chosen to accept the honors but like many great men of his profession, he desired nothing outside of that, and in which he won the highest renown. He was a student of literature, delighting in poetry, and besides was 'quite a writer, but his le-

gal abilities so overshadowed all else that few are familiar with any of his able productions. His income from his practice was immense, but he was not one of those who could save. He was never happier than when giving, and his self-constituted family were ever receiving positive evidences of his unalterable love for each individual member, besides his charity was unbounded. "He could not look upon suffering unmoved, and never turned his face from any poor man."

His person is thus described: "Slender and delicate in appearance, but his massive head at once attracted the gazer, a head which measured twenty-four and three-eighth inches in circumference. Age seemed to have no effect upon his face, severe mental labor, in the course of years, took away some of the rosy hues of youth, but otherwise it continued as fresh and as winning as a boy."

He was one of the most felicitous speakers that ever appeared at the New York Bar, in the forum or on the stump. He was as simple and unostentatious as a child, and his courtesy to the younger members of the profession in court was proverbial. His wealth of imagination was incomparable, and classical allusions came with a felicity that few scholars possess. His forte was trying desperate cases, those which the majority of lawyers shrunk from, yet he generally won these by his remarkable fertility of resources, and his devotion to the interests of the cause. He was regarded as the most genial member of the Bar; never forgetting his politeness and consideration for those to whom he was opposed. His temperament partook strongly of the ardent, and his nature was truly poetic. He never lost his self-possession, and he never refused his assistance to those who required it.

Mr. Brady died in the fullness of fame, but not in the fullness of years, for he was only fifty-four when on the morning of the 9th of February, 1869, he was at-

tacked by paralysis and died late in the afternoon of the same day. Thus passed away a good, brilliant and great lawyer; a man whose record as a citizen was incorruptible; to quote his own words, when once commenting on the death of another, "a man who had no guile in his nature, and who died leaving no living creature to rejoice at his death."







David J. Brewer

# DAVID JOSIAH BREWER.

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BY WARREN WATSON.

IT is a curious commentary on the age we live in that a city of Asia Minor, on the other side of the world, should be the birthplace of one of the justices of the United States Supreme Court. Smyrna, celebrated of old as the city from whence Homer sprung and whose foundations were laid before the Trojan war, will hereafter possess new interest for Americans because of its being the spot where a distinguished fellow countryman first saw the light of day.

David J. Brewer was born in this semi-oriental city on June 20, 1837. His father, the Reverend Josiah Brewer, was one of those devoted men who leave the comforts and amenities of home "to give light to them that sit in darkness," and was settled at Smyrna at the time as a missionary to the Greeks in Turkish lands under Congregational auspices. Josiah Brewer's wife, Emilia Field Brewer, devoted to her husband and his work, had accompanied him to the distant field to which he had been sent to plant in a stubborn and uncongenial soil the seeds of Protestant Christianity. And it thus came about that an American boy, destined to achieve great eminence at the antipodes, was born in the same atmosphere that furnished Homer with his first breath of life. His mother was the daughter of the noted Dr. Field, of Stockbridge, Massachusetts, and sister to a triumvirate of men whose names are household words in this country and as well known in the old world as that of any living American, David Dudley, Cyrus W. and

Stephen J. Field. Entering the world with such blood in his veins and surrounded from birth by the influences of culture and refinement, young Brewer certainly possessed advantages above those of the average Yankee boy, but we shall find hereafter that he was also endowed with a disposition that aspired to honorable distinction not through the prestige of his family ties but through his own unaided exertions.

The year after the birth of their son his parents returned to their native land. The brevity of his sojourn in Asia Minor accounts for the fact that among the many stories for which Justice Brewer is famous, there are none that can be traced by their oriental coloring to the bazaars and mosques of Smyrna. Shortly after his return, Josiah Brewer was appointed chaplain of the Connecticut penitentiary at Wethersfield, and here the future lawyer and jurist had ample opportunities to study the effects of retributive justice. In a recent private letter to a friend, Justice Brewer speaks of this period of his life as follows: "As I was not old enough to pick a lock or enter into any schemes to relieve an inmate, I had the *entree* to every ward and room. A 'trusty', who had the care of Warden Pillsbury's horses, I thought a wonderful man and became devoted to him. I believe he was the first man who thought I would ever amount to anything and seemed to be most happy if he could do anything to promote my pleasure and welfare. I became, therefore, loyal to all inmates of penitentiaries, and hence, during my Kansas life, I have been uniformly welcomed at the Kansas penitentiary for a Fourth of July speech to the inmates. I have thus neglected many opportunities of appealing to the voters of Kansas and have exhausted my Fourths of July in the endeavor to bring sunshine to the faces and smiles to the lips of those unfortunate ones whom the State has noticed simply to punish." Beneath the jocular spirit that prevades these words peeps out the

genial and kindly philanthropy so characteristic of Justice Brewer, a philanthropy that delighted in doing good by stealth and selected as its beneficiaries the humble and obscure, and one is tempted to construct, from this glimpse into his early life, the picture of a bold and merry hearted boy, full of enterprise and animal spirits and faithful to those upon whom he fixed his confidence and regard. When he had reached the proper age, young Brewer began his collegiate training at Wesleyan University at Middletown, Connecticut, and from thence, in accordance with a family custom, entered the junior class of Yale College. Here his associates were men who, in many cases, have since become distinguished in various walks of life and he did not fail to follow Polonius's advice and grapple them to him with hooks of steel. He graduated with high honors in 1856 in the same class with Henry B. Brown, of Detroit, and John Mason Brown, of Kentucky, both of whom, by a strange coincidence, were considered by the President in connection with Justice Brewer as possible successors to Justice Mathews. The former of these has since succeeded the lamented Justice Samuel F. Miller.

After leaving college, young Brewer was confronted by the problem that must be solved by every young American who has his own way to make in the journey of life. In an interview, published after he had reached the summit of his ambition, he is quoted as saying: "When I was a lad, it was said by those who knew me best that I would become a lawyer; what caused them to make this prediction, I do not know; but it came true. From the time I began to think seriously of life I inclined to the law." Under these circumstances his choice of a pursuit was a foregone conclusion. Entering the office of his uncle, David Dudley Field, in New York City, he pursued the study of the law for a year under his direction and then completed his legal education by a year's

course in the Albany law school. Having graduated at this institution in 1858, he received tempting offers to settle in New York, but he determined to face the world with no other prestige or resources than such as arose from his personal talents, industry and professional skill. Carefully examining the field before him, he concluded to follow the "course of empire" westward in company with thousands of other young men who, like himself, found the eastern states a theatre too crowded for rapid advancement. He first paused at Kansas City, then a mere village, but after spending a few months in a careful survey of the situation without coming to a definite conclusion he became inoculated with the gold fever (the Pike's Peak mining excitement being then at its height) and, joining the procession of fortune hunters pouring across the plains, he experienced the toils and perils of the long march up the Arkansas to the supposititious gold fields of the Rockies. After chasing for several months through the mountains of Colorado, the *ignis fatuus* that had lured him such a weary distance from civilization, he became convinced that he had stepped aside from the career destiny had provided for him and determined to return to his chosen profession and thereafter to look to no other source for advancement in life. Returning to the east he paid a brief visit home and then made his way back to Kansas and finally settled at Leavenworth on September 13, 1859. At this time Leavenworth was considered one of the most promising towns in the far west and it was selected by the young lawyer in the hope that, as it grew, he might "grow with its growth and strengthen with its strength." It turned out that the man had more elements of growth in him than the town and though the latter had many periods of stagnation, the former never halted when once started on the road to distinction. The people of Kansas from the first bestowed upon him their confidence and esteem,

and, as their approval was well placed, it was never withdrawn. He took rank at once among the foremost in his profession at the local bar and his public spirit and devotion to the interests of the community soon gave him prominence among his neighbors.

He was always an earnest advocate and helper in the cause of education. In 1863 and 1864, he was president of the Leavenworth board of education and was superintendent of schools from 1865 to 1868. In the year last named, the teachers of the State showed their appreciation of his labors by electing him president of their association. He was chosen secretary of the mercantile library association in 1862 and became its president in 1864. Among the other local institutions promoted and fostered largely through his efforts is the Mount Muncie cemetery, a necropolis scarcely surpassed in the west for beauty and arrangement, of which he has been secretary and trustee since its origin in 1866. It may be thought unnecessary to mention matters of such small consequence in writing of one who does not need such dignities to give lustre to his name, but the day of little things should not be forgotten in detailing the career of those whose honors began at the foot of life's ladder, especially not, where the person himself, so far from deprecating the early recognition of his worth implied by these humble dignities, looks back on his past career with feelings of satisfaction and still takes pride in the friendship and good will of his earliest associates.

The steps in his judicial career are as follows: In 1861, he was appointed a commissioner of the United States Circuit Court for the district of Kansas and the following year, at the age of twenty-five, he was elected Judge of the Probate and Criminal Courts of Leavenworth County; following this, he was elected, in 1864, Judge of the First Judicial District of Kansas and at the expiration of the term, in 1868, he was elected County

Attorney. From the last named office he was elevated, in 1870, when but thirty-three, years of age to the Supreme Bench of Kansas, an honor which was repeated in 1876 and again in 1882. While serving his third term in the Supreme Court, on March 31, 1884, President Arthur appointed him Circuit Judge of the United States for the Eighth Judicial Circuit to fill the vacancy caused by the resignation of the Honorable George W. McCrary, since deceased. This position he held with distinction and popular applause until he was advanced by President Harrison on December 4, 1889, to succeed Justice Matthews as Associate Justice of the Supreme Court of the United States. This was the goal of his early ambition. Having given up at the inception of his career all desire for political preferment, and despising the allurements of mere money-getting, Justice Brewer was entirely devoted to the law and aspired only to the rewards it could bring him. In the interview quoted above he is made to say: "After I had fairly embarked in my chosen profession I set my eye on the Supreme Bench, and I can truthfully say the hope of attaining the position to which I have this day been nominated, has been with me from that time. It was my greatest ambition and now that I have attained it I am satisfied, for certainly a lawyer cannot aspire to anything higher than this on earth." Afterward, at the banquet of the Bar Association of Kansas City, given December 19, 1889, at which Justice Brewer was an honored guest, in responding to a toast, he thus adverted to the motives which prompted his ambition: "It is no wonder that to the lawyer a position on the Bench is an object of high ambition. Not because it is a life of wealth, for the judge must always be content to remain poor. Not because it is a life of ease, for its labors are arduous and its patience often taxed by that weary speech of the dull advocate, which brings to mind the couplet of Tennyson on "The Brook:"

'Men may come and men may go.  
But I go on forever.'

Not because it is a life of political power, for a ward politician is more potent in political struggles than the Chief Justice of our highest Court, but because it is a life which is the incarnation of the highest thought of our profession; the thought of realizing between man and man the most complete conception of ideal justice."

It is seldom that destiny gives a man such early premonitions of the prize in store for him and still more seldom is it that the expected gift is so well bestowed. It almost seems that when Justice Brewer was born in that venerable city of the East some one of its old and vanished deities came back and sat beside his cradle, as they were wont to do with the heroes of antiquity, and thereafter guided his footsteps and protected him from misfortune. However this may be, Justice Brewer is a singular and striking example of success attained by making the most of every opportunity that came into his experience. In a sonnet lately making the rounds of the newspapers and attributed to Senator Ingalls, opportunity is pictured as a phantom that flits by the doors of "all sorts and conditions of men," but if not seized and held upon its first visit it comes no more forever. This presence, when once within reach, never escaped the vigilant perception of Justice Brewer and never failed to contribute something toward the fulfillment of his one ambition. But while he diligently labored and unceasingly aspired toward his purpose for so many years, his conception of the high position he aimed at was such that he declined to make any overt application for it when it became, finally, a possibility. Many distinguished and influential lawyers and jurists urged him to present himself to the notice of the President when the vacancy on the Supreme Bench first occurred, but he declined, saying that the office was "not one to be contested for, being too high

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and sacred." Nevertheless his eminent fitness for the position was brought to the attention of the President by numerous friends and, after a careful inquiry into the character of his judicial work as judge of the Kansas Supreme Court and as United States Circuit Judge, he was selected over the heads of many other distinguished jurists and lawyers who had been mentioned for the place.

In a brief memoir of Justice Brewer, written by Chief Justice Horton, of the Kansas Supreme Court, and published in the *Green Bag* (vol. II, page 1), the following illustration of his courtesy and generosity upon this occasion is given: "The choice lay, finally, between him and Judge Henry B. Brown, of Michigan. The two men had been class-mates at Yale. Judge Brewer wrote a letter to a mutual friend highly praising his old college chum and expressing the hope that he would secure the appointment. This letter found its way to the President as a recommendation for Brown, and its fairness so impressed the President that he appointed Brewer."

Justice Brewer's decisions, while on the Supreme Bench of Kansas, were often of the gravest importance. Generally they were concurred in by the other judges, and when this was not the case, time and experience tended frequently to confirm the justness of his views. An example of this may be seen in *State v. Railroad Co.* (7 Kan. 549), where he held against the majority of the Court that the counties and cities of the State had no power to subscribe for stock or issue bonds to railroad corporations. If the other judges had concurred in this opinion Kansas would not now be suffering under the burden of an immense municipal indebtedness on account of bonds issued to railroad and other corporations. Another noted dissenting opinion was the one he delivered in *State v. Mugler* (29 Kas., 252), which expressed the view that brewers and others whose property was depreciated in value by the adoption of the prohibitory amend-

ment were entitled to compensation. Amongst the earliest cases in which he wrote the opinion of the court was one *Monroe v. May* (9 Kas., 466) which settled the rights of married women to money possessed by them prior to marriage, or earned by them afterward, and also fixed their interest in the homestead. His strong bias toward ameliorating the legal status of women, at a period when there was still much prejudice existing against their entering fields of action hitherto monopolized by men, is displayed in *Wright v. Noell* (16 Kas., 601), where his opinion prevailed, after much discussion and hesitation on the part of the other judges, that a woman is eligible in Kansas to hold the office of county superintendent of public instruction. Many lawyers and laymen felt at the time that this was a step in the wrong direction, but there are few good citizens who do not now heartily coincide with the views expressed. His interest in, and influence upon the law of domestic relations as administered in Kansas, may be gathered from *Chapsky v. Wood* (26 Kas., 650) and *In re Bullen* (26 Kas., 781); these are both worthy the attention of those interested in the law of parent and child. When the Constitutionality of the adoption of the prohibitory amendment to the Constitution of Kansas came in question Justice Brewer wrote the opinion of the court, holding that the amendment was properly adopted (*Prohibitory Amendment Cases*, 24 Kas., 700); and when the validity of the statutes enacted under the provisions of this amendment was attacked it was his pen that wrote the decision sustaining them (*Intoxicating Liquor Cases*, 25 Kas., 751). If space permitted many other decisions, quite as important as the ones mentioned, might be referred to.

When Justice Brewer ascended the Federal Circuit Bench, the Eighth Circuit comprised seven states, Nebraska, Minnesota, Iowa, Missouri, Kansas, Colorado and Arkansas. To these were added, before his promotion,

the states of North and South Dakota and Wyoming. In each of these States there were at least two terms of the circuit court held in each year and in some, such as Missouri, for example, there were as many as ten (now there are twelve). It is not necessary to enlarge upon the arduous nature of the task he was called on to perform or the scrupulous and diligent manner with which he performed it. His habits of industry and his love for judicial work were amply supplied with materials for their fullest exercise and, under his conception of the duties of his office, the strain put upon him finally, in the spring of 1889, began to undermine even his vigorous and elastic constitution. He did not easily accept this fact and it was not until threatened with a dangerous illness that he was persuaded to abandon the Bench for a season and to seek health and strength in the region where he had once pursued the phantom of wealth, the mountains of Colorado. Though in a condition of health that excited the apprehension of all who knew and loved him, his recuperative powers and the cheerful and hopeful spirit with which he encountered disease, assisted the salubrity of the mountain air in producing a rapid and permanent recovery. When convalescent he took a trip to the Pacific Coast, arriving in San Francisco during the excitement that followed the killing of Terry by Deputy Marshal Neagle, and sitting on the Bench with his uncle, Justice Field, the morning following the day on which the attack of Terry was made. Notwithstanding the unpleasant shock of this event, Justice Brewer's health was further benefited by the trip and when he finally returned to his labors in the fall no trace of his struggle with disease remained.

It is difficult to select from the great number of important cases decided by Justice Brewer on the Circuit Court Bench, involving questions in nearly every branch of jurisprudence, a few that are characteristic of all, or

that present any adequate embodiment of his influence upon the administration of justice. Without attempting an adequate selection, it will suffice to refer to *State v. Wolruff* (26 Fed. Rep., 178), in which he followed the views expressed in his dissenting opinion in *State v. Mugler*, above referred to; to *United States v. Maxwell Land Grant Company*, a decision (afterward sustained by the Supreme Court) which asserted the validity of the largest land grant ever confirmed in this country; to *Railway Company v. Railroad Commissioners*, in which the Railroad Commissioners of Iowa were enjoined from putting in force a tariff of rates so low as not to furnish the railroad companies with means enough to pay the expenses of running the roads and paying fixed charges. This is the first time that such an injunction was ever granted. The opinion judicially limited the power of the State over the fares and freights charged by the railroad companies. The principle of this decision has been sustained by the Supreme Court since Justice Brewer came to that Bench. In the noted Wabash foreclosure case, there were many issues and an immense volume of business to be disposed of, necessitating the delivery of many opinions on intricate questions arising out of the several rights of all the various parties who might be interested in a railway. Another important case was *McElroy v. Kansas City* in which the significance of that section of the Missouri Constitution, requiring compensation for property damaged as well as property taken, was discussed and decided.

These few cases may illustrate the multitude of controversies, frequently of great local importance, and involving nearly every branch of the law, that arose before Justice Brewer while he was on the Circuit Bench.

Justice Brewer's conduct upon the Bench was and is guided by an exalted standard. In his remarks at the banquet of the Kansas City Bar Association before alluded

to, he thus expresses his conception of the judicial office: "Only the vestal virgins might attend the sacred fires in the ancient temples. Only he whose life is free from stain, who has the courage and patience of conviction and the wisdom to know, can ever become the ideal judge. So we bend in reverence and honor before Story, whose learning was so vast that it was not inaptly said that all learning was his; before Marshall whose life was so simple and pure that he could truthfully be described as 'a man without guile'; before Mansfield, who, looking into the face of an angry mob surging up against Westminster Hall, had the courage to scorn its demand and declare, 'I wish popularity, but it is that popularity which follows and not that which runs after; it is that which, sooner or later, never fails to do justice to the pursuit of noble ends by noble means.'" These sentiments might seem like mere rhetoric in the mouth of one whose public life little conforms to their high promptings; in the mouth of Justice Brewer they sound sincere and portray to all who know him the man himself.

Commenting on Justice Brewer's characteristics in the memoir mentioned above Judge Horton says: "He possesses quick perceptive faculties and works with great facility and ease. He has discharged all the duties of his various judicial positions with untiring industry, acknowledged ability and recognized impartiality. He has great executive ability and is very energetic in the dispatch of business. He is a cultivated, courteous and christian gentleman with all that these terms imply. He has social qualities of a high order, being genial, companionable and an expert story teller. He is possessed of a vigorous constitution, is in excellent health and capable of performing the severest literary or judicial labor. As a scholar, as a lawyer and as a jurist he ranks among the very ablest in the great West. If he carries with him to Washington his Kansas habits of early rising, he will

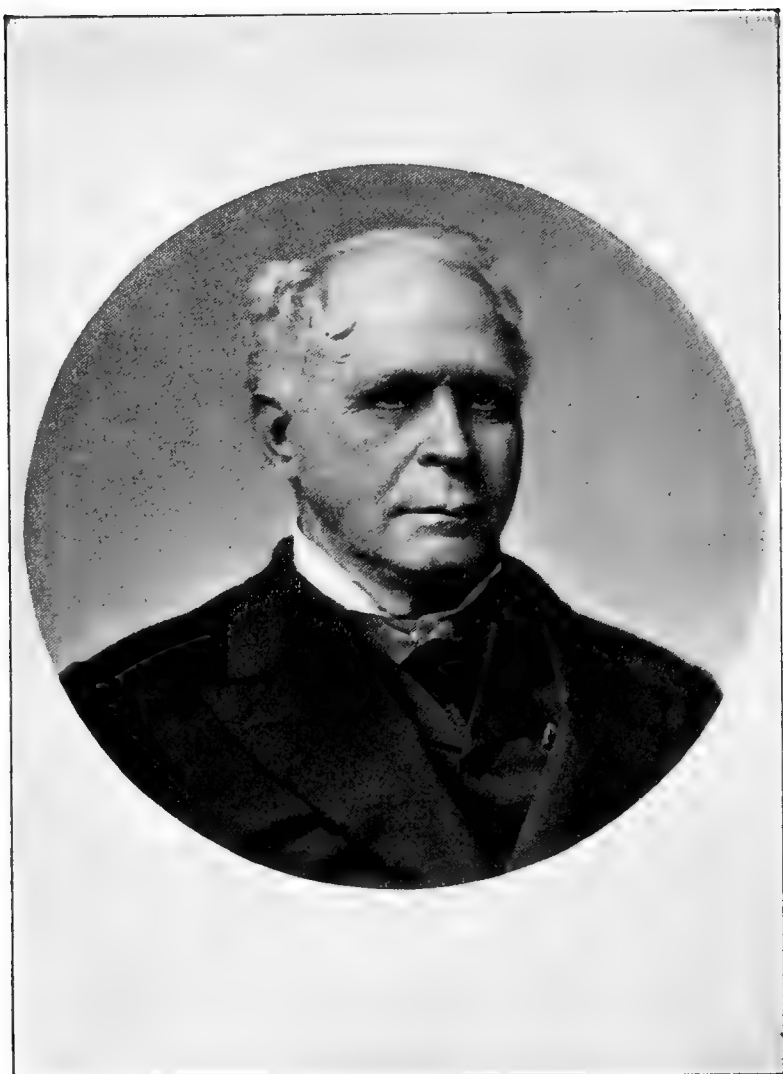
surprise his associates upon the Bench, as he is often found in his library reading court papers or preparing an opinion in an important case, as early as 6 A. M." Whether astonishing or not to his associates, Justice Brewer still maintains his Kansas habits in Washington. He usually rises at dawn and may be found engaged in his study, surrounded with law books and documents long before sunrise. This custom suitable alone to robust and vigorous constitutions, so far from being insalutary to him, seems a necessary outgrowth of his abounding and almost boyish health and spirits and his love for his work. At the comparatively early age of fifty-three, with every faculty of mind and body in the fullest vigor, with wide judicial experience, scholarly attainments, talents of a high order, a reputation unsoiled by even a suspicion of evil and a most lovable disposition, Justice Brewer is equipped for a career on the Supreme Bench second to none who have ever occupied that exalted station. If genius, dignity, amiability and learning are worthy of admiration and honor, Justice Brewer's fame is secure in his own generation and in those that are to follow.

Shortly after settling in Kansas, the future jurist met a young lady from Burlington, Vermont, Miss Louisa R. Landon, then visiting her sister in Leavenworth. This circumstance, like so many other incidents of his life, proved a most fortunate one, for the Green Mountain girl became his wife and helpmeet. Their married life has been singularly felicitous. No youth in the first ardor of "love's young dream" could speak of his sweetheart more tenderly and appreciatively than does this middle aged Justice of his wife. In responding to a toast at the Forefathers' banquet of the Kansas City Congregational Club, December 23, 1889, he referred to his wife's part in his success in life with the most affectionate appreciation and closed his allusions to this subject by saying: "To-day there opens before him [the speaker], the

door to the highest tribunal in the Nation and with all the joys that come to him from realized ambitions and high position, that which touches him the most is that he takes with him to that new and higher life, the little woman, who for more than a quarter of a century has been his constant joy and benediction." On another occasion, the New England banquet at Leavenworth, February 22, 1889, while referring to the part New England women took in bringing about the success of the pilgrim fathers and their descendants, he paid the following tribute to his wife: "I know whereof I affirm when I say that a little woman, illy versed in the lore of the schools, incapable of the active struggles of public life and seeking ever the quiet and retirement of home life, may be the inspiration and monitor of one occupying high public office and whose life is filled with wide-spread activities." It is pleasant to dwell on this picture of married lovers, alas, so seldom to be found among those in high station, or in any rank of life after a marital experience of a quarter of a century, and it needed but this to fill up the portrait of a wise and good man attempted to be drawn in this too brief sketch. Their union has been blessed with four daughters, Harriet E., Etta L., Fannie A. and Jennie E. Brewer, of whom the first named was recently married to Mr. Aaron P. Jetmore, a young lawyer of high character and ability residing at Topeka.

Justice Brewer has received the degree of LL.D. from Yale College.





*Edw. P. Swarth*

## JAMES OVERTON BROADHEAD.

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THIS distinguished member of the Saint Louis Bar was born in Albemarle County, Virginia, on the 29th of May 1819. His father, Achilles Broadhead, was a substantial farmer and a soldier in the war of 1812, with the rank of captain.

At the early age of sixteen, Mr. Broadhead entered the University of Virginia, but his father having left him no patrimony, he was obliged to support himself while at that institution, by engaging himself as a private tutor during his leisure hours. In 1836, he taught in a private school near Baltimore, and the next year removed to Missouri, where his father had preceded him a short time before. Although but eighteen years old when he arrived in Missouri, he found employment as a tutor in the family of the distinguished Edward Bates, in whose household he was a member for four years, during that time incidently reading law under the immediate supervision of Mr. Bates, who had, from the first introduction of young Broadhead into his family, taken a decided liking to his studious protege. In 1842, he was admitted to the practice by Judge Ezra Hunt, who was then holding court at Bowling Green, Pike County. The young attorney then selected Bowling Green as his place of residence, and at once engaged in the practice of his profession in the circuit which then embraced the counties of Saint Charles, Lincoln, Pike, Ralls, Montgomery and Warren. Mr. Broadhead soon assumed a position in the front rank of a Bar which has become lustrous, as the his-

tory of Pike County is very closely allied to the history of the intellectual development of Missouri.

In 1845, Mr. Broadhead was elected a delegate from the Second Senatorial District to the State Constitutional Convention; two years later he was elected by the Whig party, of which he was a staunch adherent, to represent Pike County in the Legislature. In 1851, he was sent to the State Senate by an immense majority, where he served with distinction for four years. In 1859, Mr. Broadhead transferred his residence from Saint Charles to Saint Louis, where he formed a partnership with Fidelio C. Sharp, an eminent jurist; the firm of Sharp and Broadhead continued until 1875, when it was dissolved by the death of the senior partner. Mr. Broadhead then associated himself with another legal gentleman, the firm now being Broadhead and Haenssler.

At the breaking out of the Civil War, Mr. Broadhead was an unswerving Union man. Great credit is due to him in those troublous days in maintaining the integrity of the State intact in its relations with the Federal Government. He was the warm and trusted friend of Frank P. Blair, at whose suggestion Mr. Broadhead was placed on the Committee of Public Safety, organized in Saint Louis on the 1st of February, 1861, for the purpose of resisting any overt acts by the enemies of the Union. This Committee was composed of such sterling men as O. D. Filley, Samuel T. Glover, John Howe, J. J. Witzig, Frank P. Blair and James O. Broadhead. Mr. Broadhead is the only living representative of that famous committee, which in its day discharged a grave responsibility.

Mr. Broadhead was a member of the State Convention which met in St. Louis, in 1861, to reorganize the State Government, the Chief Magistrate, Claiborne Jackson, having fled from the Commonwealth. During the winter of that year and the succeeding spring, Mr. Broadhead was busily engaged in connection with other prom-

inent citizens of Saint Louis, in organizing volunteer regiments to be mustered into the United States service, and superintending and directing the movements of those who were attached to the Union cause in the State, during that most distracting and exciting epoch in the history of our country. The State Convention assembled in February, 1861, and was composed of delegates from the various Senatorial Districts, in pursuance of an act of the Legislature calling the Convention to take into consideration "the relations existing between the Government of the United States, the people and governments of the different States, and the Government and people of the State of Missouri." This was one of the most important gatherings that had ever assembled in the State, and grave indeed were the questions to be determined. Mr. Broadhead was Chairman of a Committee which reported a declaration vacating the offices of Governor, Lieutenant Governor, Secretary of State and Treasurer. The Convention remained in session, at intervals, for nearly three years, forming and establishing a provisional State Government.

That same year of the first meeting of the Convention, President Lincoln appointed Mr. Broadhead United States District Attorney, a most delicate and important position at that particular juncture, but Mr. Broadhead was compelled to decline the honor, much to the regret of the President, in consequence of his time being so occupied by the serious duties relating to the condition of the State. His old patron and friend, Edward Bates, had urged the appointment to the President, and he, too, regretted exceedingly that it could not, under the circumstances, be accepted.

In the spring of 1863, Mr. Broadhead was appointed Lieutenant Colonel of the Third Missouri Cavalry and immediately was made Provost Marshal General of the Military Department of Missouri which embraced the

States of Missouri, Arkansas, Kansas, Indian Territory and the southern half of the State of Iowa. This important and arduous position Colonel Broadhead held for one year, during the stirring and most eventful period in the history of the southwest. In 1864, affairs began to assume a comparatively quiet aspect once more in this region of the country, and Colonel Broadhead resigned his military office to resume the practice of his profession, which had been sadly neglected for a long while. He re-entered public service again in 1875, at which time he was chosen a delegate to the Constitutional Convention which framed the instrument under which the State of Missouri is now controlled. The organization of the Court of Appeals was strongly advocated by Colonel Broadhead, and the separation of the city of Saint Louis from the county under charter, which is now in force, and which can be amended by the people at stated intervals, was another beneficial measure earnestly supported by Colonel Broadhead, and he was placed upon the Board composed of thirteen members to carry out in detail the authority of separation by the Constitution.

In 1876, Colonel Broadhead was retained by the United States as a special counsel in the prosecution of the "Whiskey Ring;" his fearless and able presentation of a gigantic conspiracy which extended almost to the door of the "White House," is part of the history of the country. In 1878, Colonel Broadhead received the honor, which to him is the crowning glory of all he has been the recipient. He was elected the first President of the American Bar Association, which was organized at Saratoga Springs, New York, by the ablest and most prominent members of the legal profession in the United States. In 1882, he was nominated, by the Democratic party of the North Missouri District, for Representative in Congress for the unexpired term of Thomas Allen deceased, and also for the constitutional term of two years in the

Forty-eighth Session. He was elected to the latter and at once took rank with the ablest members there on the Committees to which he was assigned, the most important of which was that of the Judiciary, where he was immediately placed by Speaker Carlisle who recognized his standing at the American Bar. He was also a member of the Committee on the election of the President and Vice-President, which subsequently formulated the existing plan of Presidential succession through the list of cabinet officers in the event of the death or removal of the Chief magistrate. Colonel Broadhead's course in Congress was dignified and in full accord with his industrious habits; his positive refusal to receive a second nomination was regretted by the best element of his constituents both in the city of Saint Louis and in the rural districts.

Shortly after the expiration of his term in Congress, on the 15th of May 1885, he was appointed by President Cleveland, a Special Commissioner, under the provisions of an act entitled: "An act to provide for the ascertainment of claims of American citizens for spoliations committed by the French prior to the 31st day of July, 1801." It became the duty of Colonel Broadhead, under the terms of his commission to examine the archives of the French government, and particularly those of the French tribunals which had cognizance of prize cases; to examine the records of those courts relating to procedure for condemnation in cases of seizures of American vessels and their cargoes by the French cruisers during the period extending from 1790 to 1801. In pursuance of this important task, Colonel Broadhead sailed for France, and having obtained the necessary authority from the Minister of State, M. Freychenet, he commenced his examination in the Bureau of National Archives in Paris; the office of the Consul General, of the Minister of Marine and all other public departments where reliable information could be obtained, to which he secured access

by letters from the Ministers of Marine and Justice addressed to the Conservator of the Public Archives. Colonel Broadhead then proceeded to various seaport towns of the French Republic, Dieppe, Havre, Cherbourg, St. Malo, and all others of importance, where he carefully examined the archives of the tribunals of commerce in those places which had had jurisdiction over prize cases during the period referred to. After an arduous four months' work in the direction of his mission, he prepared an elaborate report to the Secretary of State at Washington, in which was a record of his researches abroad, embracing the procedure for condemnation in the cases of about three hundred American vessels which had been seized by French Cruisers between 1793 and September 30, 1800, the date of the ratification of the proceedings of the Convention of the United States and the French Republic. On the findings of this Commission of Colonel Broadhead's, the Court of Claims in Washington, in 1889, allowed the claims that had been held in abeyance for ninety years, and the Congress which has just closed its labors, made the necessary appropriation for their payment.

Colonel Broadhead's career as a lawyer has been one of continued success. In the prosecutors of the Whiskey conspirators, he was confronted by some of the most eminent counsel in the Nation; Emery A. Storrs, of Chicago, Henry Porter of New York and Daniel W. Voorhees, of Indiana, among the number. Colonel Broadhead's most signal victory at the Bar was in the case of the Southern Express Company against the Iron Mountain and Southern Railroad Company, before the Supreme Court of the United States, which not only involved large interests, but gave rise to new and very important questions in relation to the law governing common carriers. It had been decided by Judge Miller, sitting in the United States Circuit Court for the Eastern District of Missouri,

that an express company in the absence of any contract with a railway company had the right to require of such company a special car or cars for the transportation of express matter; to furnish a place for an Express Messenger to take charge of the Express Company's matter, and also to furnish accommodations at the different stations for the Express Company; such compensation to be paid to the Railway Companies by the Express Company as the courts might consider reasonable, and that without any agreement or understanding between the parties or any definition by the court as to what constituted express matter. In other words, whether the Railway Company was a common carrier of a common carrier? The case was decisive of several other cases involving the same question, and taken on appeal to the Supreme Court of the United States. It was a controversy between the Railway Companies and the Express Companies involving large pecuniary interests. Three of the Associates had decided in favor of the Express Companies in their regular circuit. Senator Edmunds, of Vermont, Mr. Seward, of New York, and Judge Campbell, of New Orleans, argued the case before the Supreme Court for the Express Companies, and Judge Dillon, of New York, Judge Morgan, of Memphis, Judge Brown, of Little Rock, and Colonel Broadhead for the Railroad Companies. The closing of the argument was made by Colonel Broadhead. Two days were consumed and the result was a reversal of the decision of the Circuit Judges.

Colonel Broadhead, by his long years of service in the profession and the nature of his practice, is perfectly familiar with every branch of the law; his practice today is limited only by his own inclinations and he is regarded as one of the best constitutional lawyers in the State and has few peers in the whole country.

Politically, he is a Democrat and is a leader in the councils of his party; socially, he is a liberal entertainer

and a genial host. He is foremost in the advancement of all interests for the benefit of Saint Louis, the city of his long residence, where he enjoys that esteem which a career of honor and integrity always demands. He is now in his seventy-second year, has been before the public in many positions of trust for over half a century, and from the record of his youth and lack of advantages in his early days, is a noble example of the self-made man. He is in perfect health, without a single faculty impaired, and is the acknowledged head of the Missouri Bar.







*Benjamin Franklin*

## BENJAMIN FRANKLIN BUTLER.

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THIS distinguished lawyer, soldier and politician, was born at Deerfield, New Hampshire, on the 5th day of November, 1818. His father was John Butler, of the same town, who was a Captain of Dragoons during the war with England, in 1812, serving for a time under General Jackson at New Orleans. After the close of the war, he followed the sea, sometimes as master of a vessel, sometimes as supercargo and again as a merchant engaged in the West India trade. He was a staunch Democrat in politics, and when it cost the loss of caste, almost, to live in New Hampshire and adhere to the tenets of that party. In the town of Deerfield, at that time, there were but seven other voters besides himself who cast their ballots with that party, and they all formed a little coterie, were avoided by the Federalists, and looked down upon as men to be shunned, with all the elements of danger in them. General Butler's grandfather, Captain Zephaniah Butler, of Connecticut, was also a soldier and was with Wolf at the storming of Quebec, serving also in the Continental army during the American Revolution, so that the subject of this sketch comes very naturally by his fighting qualities.

His mother was a descendent of the Cilleys of New Hampshire, who were of Scotch-Irish blood one of whom fought at the battle of the Boyne. The famous Colonel Cilley, who fought at the battle of Bennington under General Stark, was a relative of his mother and who, as

tradition hath it, had never seen a cannon until then, and sat upon one while it was discharged.

When General Butler was but five months old, his father died of yellow fever, and he with another brother was left to the care of their widowed mother, who had but very slender means of support; she was of that type of New England women who never despair under difficulties, made the most of her slight opportunities and succeeded in giving her children an education.

Benjamin was a diminutive, sickly child, far from evincing those traits of pugnacity which characterized his later years, and made him the indomitable soldier, into which the Civil War developed him; he was just the reverse of anything that savored of his taking his own part, happy in having an older brother to take up his quarrels for him. It is said that he can hardly recollect when he could not read, and was ravenous in his taste in that direction, which he has never lost. He always remembered what he read and in the scarcity of books, in the days of his boyhood, he was compelled to read the same over many times so that he soon had nearly all that he could procure by heart. His mother was a deeply religious woman and the great family Bible was considered a sufficient library for herself; to please her, young Benjamin would often learn whole chapters and repeat them to her on the quiet New England Sabbath evenings, and once he committed the whole of that uninteresting first chapter of Matthew to memory. Thus training that wonderful gift, called memory, when young, he all through life retained his remarkable power in this direction, which is phenomenal.

In 1828, when young Benjamin had attained his tenth year, his mother removed to Lowell, Massachusetts, then a small town of only two thousand inhabitants. There she opened a boarding house, to increase her income and to enable her to continue the education

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of her boys. Here were better schools, more chance to get books, of which Benjamin availed himself. First graduating from the Common to the High School, he left to prepare himself for entrance to the still famous Academy at Exeter, in his native State. When the time arrived for the young student to decide upon a choice of colleges, he, with the military ardor that he inherited from his soldier ancestors, decided in favor of the Military Academy at West Point; he could have had the appointment there without any special effort, but his conservative mother, fearing that he would be without that religious training, which she regarded as essential to his future, declined to assent to him going there; she, in fact, had decided in her own mind that she would make a Baptist Minister of her boy, and as was the custom in those days, when the pastor of the church was a power, consulted her minister upon the subject, who recommended Waterville, Maine, at which place the Baptists had recently founded a college. So to Waterville College the boy was sent, at the early age of sixteen, with the intention of educating him for the ministry. He is described at that time, in one of the sketches of his young life "as a slender lad of sixteen, small of stature, health infirm, of fair complexion, and hair of reddish brown; his character conspicuously shown in the remarkable form of his head. Over his eyes, an immense development of the perceptive powers, and the upper forehead retreating almost like that of a flat-head Indian. A youth of keen vision, fiery, inquisitive, fearless, nothing yet developed in him but ardent curiosity to know, and perfect memory to retain."

Without a manual labor department in the college, where young Butler could work a few hours each day, receiving pay for it, he would not have been able to meet all his expenses, as his means were very limited and his willing mother could help him but little. An uncle gave

him some assistance occasionally, but after all he was obliged to run in debt for a large amount of his college course. He was handicapped by the character and want of learning on the part of the professors, as Waterville College was a small institution at best, and most of them were of that strictly theological class, whose aim was to make Baptist ministers rather than fine scholars. What he lacked in the formal curriculum, he made up out of the college library, for he was an omnivorous reader, and there he found all the natural sciences, at least, but chemistry being his choice his tastes inclined him to medicine in the choice of a profession.

His example was contagious; like himself there were many of his classmates who were opposed to the hard and dry regular course of study and consequently there was a breach in the literary society, whose tenets were that the course of reading was that prescribed by the religious aims of the college. The result was that a split ensued, a portion of the members retired, and after a great deal of electioneering and discussion, Butler was elected the president, and the absorbing question was "whether the mind would fare better by confining itself to the college routine, or by reading whatever it had an appetite for?" Young Butler, of course, maintained by word and his persistent example, "that knowledge was knowledge, however obtained, and the mind could get the most advantage by partaking of the kind of nutriment it craved." He once made a bet with one of those consistent plodders which are to be found in all institutions of learning, even to-day, that he would continue his desultory reading and yet excel him in the classes. Butler won, but as he admits, by *cramming* late at night when all the other students were asleep; his memory, of course, made it easier for him, as it was no trouble to commit page after page, and he trusted entirely to this method in the preparation of his lessons. At one time, he astonished his

friend with whom he had made the wager, by repeating thirteen pages of "Wayland's Moral Philosophy" without making a mistake.

He had a row with the professor on a point of discipline, caused by a fine of ten cents that had been imposed upon him for being absent from prayers. That was an immense amount of money to him at that particular juncture, as he could earn but two or three times that sum by working in the chair shop. It was not so much the loss of the money that disturbed him, however, but the fine carried with it a loss of standing in the classes, which he, in his strict construction of justice, regarded as wholly wrong. His argument in defense of his dereliction was based upon a sermon preached by one of the faculty, a distinguished theologian, a most severe Calvinist in his propositions, which were these: "The elect, and the elect alone, will be saved; of the people commonly called Christians, probably not more than one in a hundred will be saved; the heathen have a better chance of salvation than the inhabitants of Christian countries who neglect their opportunities."

Young Butler drew up a petition to the faculty using the most respectful language in its wording, begging to be excused from further attendance at prayers and sermons, on the grounds so ably sustained in the discourse of the preceding Sunday: "If," he said, "the doctrine of that sermon was sound, of which he would not presume to entertain a doubt, he was only preparing for himself a future of more exquisite anguish by attending religious services. He begged to be allowed to remind the faculty, that the church in which the sermon was preached, had usually a congregation of six hundred persons, nine of whom were his revered professors and tutors, and as only one in a hundred of ordinary Christians could be saved, three even of the faculty, good men all of them, were inevitably damned. Could he, a mere stu-

dent, and not one of the most exemplary, expect to be saved before his superior? Far be from him a thought so presumptuous. Shakespeare himself had intimated that the lieutenant could not expect salvation before his military superior. Nothing remained; therefore, for him but perdition. In this melancholy posture of affairs, it became him to beware of heightening his future torment by listening to the moving eloquence of the pulpit, or availing himself of any of the privileges of religion. But here he was met by the college laws, which compelled attendance at chapel and church; which imposed a pecuniary fine for non-attendance, and entailed a loss of the honors due to his scholarship. Threatened thus with damnation in the next world, bankruptcy and disgrace in this, he implored the merciful consideration of the faculty and asked to be excused from all further attendance at prayers and at church." This petition was carefully written and sent to the President, but the grim theologian could not take a joke; before the whole college in chapel, the delinquent was hauled up and severely reprimanded for his impudence and irreverence and he came nearly being expelled, saved only by a friend or two in the list of professors who appreciated the humor of the thing.

When he had completed his college course, the question of his graduation at all was a serious one, his standing as a scholar was good enough, but on account of his rebellious spirit, he was assigned a very low place, but his diploma was as excellent as any of his classmates. He had abandoned his penchant for medicine and by the result of an accident, as it were, he decided upon the law. He was present in a court room where a well contested suit was in progress, which he watched with interest and eagerness and then and there said to himself, "This is good enough for me." At the time he left college, he only weighed ninety-seven pounds, his health was miserable and he was also in debt, but in all the world there

was no one to whom he could look to for a helping hand, and he knew that he must struggle on alone. Just at this juncture, he happened to meet an uncle who took pity on his attenuated nephew and invited him to take a trip on his fishing schooner for his health. But the old weather-beaten mariner said to him: "Come with me, my lad, to the coast of Labrador, and heave a line this summer. I'll give you a bunk in the cabin, but you must do your duty before the mast, watch and watch, like a man, and I'll warrant you'll come back sound enough in the fall."

The sick young man accepted his kind uncle's invitation, and returned after a four months' cruise the perfect impersonation of health, and had not another sick day after for more than a quarter of a century. The hardships of the trip, from which he was not at any time exempt, made him "the most indefatigable, the toughest, and brainiest man seen in New England for many a year." He returned to Lowell, where his mother still resided in her uneventful, quiet way, when he was just twenty years old, and commenced to read law in the office of a gentleman who passed the most of his days in Boston and from whom, consequently, the aspiring young Butler never received a single word of encouragement, advice or counsel, but kept on in his studious manner, studying as hard as his indomitable energy demanded. He commenced the practice in the local police courts taking up the causes of the factory girls against the mill-owners and defending in petty criminal cases, for which he received but a dollar or two as fees and glad was he to get even that.

Like all great\*men, or at least the majority of them, he taught school in Lowell "in order to procure decent clothing," and at that time practicing, studying and teaching consumed eighteen hours out of the twenty-four. It was then for the first time he indulged in his inherent tastes for the military; associating himself with the Sixth

Regiment, of Massachusetts Militia, that same organization which years afterwards made a history for itself on the bloody day in Baltimore, during its march through that rebellious city, on its way to defend the National Capital, at the beginning of the Civil War. Enlisting as a private, he passed successively through all the grades until he reached the highest known to the State troops, that of Major General. The drills, parades and annual encampments, for many years, were the only relief from his work he permitted himself to indulge in.

An incident is recorded of his life at this time which tell more than volumes could of his determination to know the "why and the wherefore" of everything he attempted to investigate. The first locomotive, then a strange sight, made its appearance in Lowell and young Butler was determined to see and learn all about it. For that purpose, he visited the house where the new curiosity was sheltered and spent five whole hours in mastering its mysteries, which he did by examining it and questioning the engineer, so that by the time he had finished his exhaustive inquiries, he was as competent to run the thing as was its master.

The young attorney soon won his way to a lucrative business; his politics, he thought at first, would be an obstacle to success, for to be a Democrat in Lowell was "like living at Cape Cod and voting against the fishing bounties or in Louisiana and opposing the sugar duty." But his boldness, his diligence and special belief that his duty was to his client at all hazards, brought him causes by those who were as bitterly opposed to him, politically, as it is possible to conceive of, yet as they desired to gain their case they took it to him, for he was sure to win if within the limits of possibility. These opinions of him at that time, and afterward, are here quoted freely from various sources:

"In some important particulars, General Butler sur-

passed all his contemporaries at the New England Bar. His memory was such that he could retain the whole of the testimony of the very longest trial without making a note. His power of labor seemed unlimited. In fertility of expedient and in the lightning quickness of his devices to snatch victory from the jaws of defeat, his equal has seldom ever lived. To these gifts, add a perseverance that knew no discouragement, and never accepted defeat while one possibility of triumph remained."

"His devices and shifts to obtain an acquittal and release are absolutely endless and innumerable. He is never daunted or baffled until the sentence is passed and put into execution, and the reprieve, pardon or commutation refused. An indictment must be drawn with the greatest nicety or it will not stand his criticism. A verdict of guilty is nothing to him, it is only the beginning of the case; he has fifty exceptions, motions in arrest of judgment, and after that the *habeas corpus* and personal replevin. The opposing counsel never begins to feel safe until the evidence is all in, for he knows not what new dodges General Butler may spring upon him. He is more fertile in expedients than any man who practices law among us. His expedients frequently fail, but they are generally plausible enough to bear the test of trial, and faulty and weak, as they often are, Butler always has confidence in them to the last, and when one fails, he invariably tries another. If it were not that there must be an end to everything, his desperate cases would never be finished, for there would be no end to his expedients to obtain his case."

"Unexampled success attended his professional efforts, so characterized by shrewdness and zeal. When the war summoned him from these toils, he had a larger practice than any other man in the State. I have no doubt he tried four times more causes, at least, than any other lawyer, during the ten years preceding the war. The

same qualities which made him efficient in the war, made him efficient as a lawyer. Fertile in resources and stratagem, earnest and zealous to an extraordinary degree, certain of the integrity of his client's cause, and not inclined to criticise or inquire whether it was strictly constitutional or not, but defending the whole line with a boldness and energy that generally carried court and jury alike. His ingenuity is exhaustless; if he makes a mistake in speech or action, it has no sinister effect, for the reason that he will himself discover and correct the error, before any 'barren spectator' has seized upon it."

"He is faithful and tenacious to the last degree. There is no possibility of treachery in his conduct. 'He could not betray the devil to his fellow.' No man in America can remember facts, important and unimportant like General Butler; whatever enters his mind remains there forever, and his knowledge is available the instant it is needed without confusion or tumult of thought. The testimony delivered through days of dreary trials, without minutes or memoranda of any kind, he could recall in fresher and more accurate phrases, remembering always the substance and generally all the important expressions, with far more precision than the other counsel could gather it from their 'writing books', wherein they had endeavored to record it. Practice for a long series of years had so disciplined his mind in this respect that it is quite impossible for him to forget, and as he has mingled constantly with every kind of business and interest of humanity since he was admitted to the Bar, he has become possessed of a marvelous extent and variety of knowledge respecting the affairs of mankind."

"Such energy and talent as this, could not fail of liberal reward. After ten years of practice at Lowell, with frequent employment in Boston courts, General Butler opened an office in Boston, and thenceforward, in conjunction with a partner in each city, carried on two

distinct establishments. For many years, he was punctual at the depot in Lowell at seven in the morning, at Boston soon after eight, in court at Boston from half past nine till near five in the afternoon, back to Lowell and to dinner at half past six, at his office in Lowell from half past seven till midnight or later. When the war broke out, he had the most lucrative practice in New England, worth, at a moderate estimate, eighteen thousand dollars a year. At the moment of his leaving for the seat of war, the list of cases in which he was retained numbered five hundred. Despite his enormous and incessant labors at the Bar, he was a busy and eager politician. From his twentieth year he was wont to stump the neighboring towns at election time, and from the year 1844, never failed to attend the National Conventions of his party. Upon all questions, both of State and National politics, which have agitated Massachusetts during the last twenty years, his record is clear and ineffaceable. Right or wrong, there is not the slightest difficulty in knowing where he has stood or stands. He has, in perfection, what the French call 'the courage of opinion.'"

The District Attorney, Mr. Morse, who occupied that position for seventeen years prior to 1871, said of General Butler's legal abilities: "General Butler defended a great many criminals during my term of office. He was a most dangerous adversary and every point had to be most carefully defended lest he pick a hole in it. He was very ingenious, and as a technical lawyer was the ablest I ever saw."

Judge J. G. Abbott says: "I have probably tried more cases against General Butler than any other lawyer. In the period 1840 to 1860, we met often. In one faculty I have never known him to be excelled; this was the keeping out and the getting in of evidence."

Of late, General Butler's legal battles have been confined to the courts of Boston, New York and Washington. His criminal practice has been permitted to diminish

more and more year by year. Civil cases and cases relating to pensions have taken up about all his time for he is just as hard a worker as ever. In the United States District Court, no lawyer is better known than the General. The court officers hear of his appearance with much the same feeling that they receive the announcement of the arrival of the Judge. General Butler's peculiar methods of fighting a case have been described; he has changed little even in his later days in this respect. "I object your honor" has been said by him, probably, more times than any man living or dead. His life in fighting cases has been one great objection, so to speak, in this respect. Just at the moment when he becomes snugly composed in his chair, and his eyelids drop down over his eyes as if he were asleep, the objection is liable to come. With it his massive frame begins slowly to rise from the chair, he goes over to the Judge's desk, braces himself and the Judge then hears the objection, and quite frequently the jury does too, for General Butler has always been a firm believer in the enlightenment of juries, even when the opposing counsel thinks only the evidence is fit for their ears. When any papers are entered in a case by the opposing counsel, the General's objections are all the fiercer; a paper thus introduced never had a closer scrutiny than that afforded by the General. He never wears glasses, even in his old age, consequently a close application is necessary and the paper is drawn from side to side with both hands, as near to his face as his nose will permit.

The General's voice is not as powerful as it used to be, in fact it is now difficult to hear him any great distance, though he occasionally fires up and some of the old time force presents itself. He still relies considerably on the sympathy of the jury, especially when he is defending a woman. His method of arguing his case is the same in substance as it always has been. Plenty of

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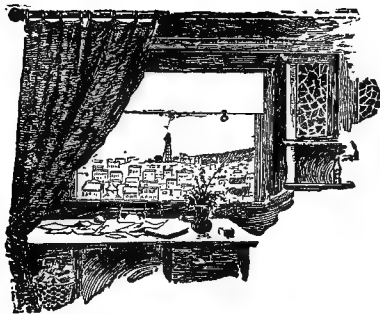
wit and humor runs through his speech, and these with all the pathos his case will permit, combine to make his always eloquent pleas more effective. His favorite attitude while addressing a jury is to brace his broad shoulders against the clerk's desk, his hands deeply thrust into his trousers pockets, seldom making gestures.

Happily married in early life to a lady in whom are united the accomplishments which please, and the qualities that inspire esteem, with three children to bless his home, he enjoys life as he deserves at his age. At forty, though he lived liberally, he was so well fixed financially, all his own hard earnings, that he could have retired from business had he so chosen, but his life has been ever a toilsome one, and he will continue to labor in the cause of those who require his great services, to the end.

In 1884, he was nominated by the third party organization for the Presidency and of course was defeated, as he expected to be, when he accepted it. He had become dissatisfied with the policies of the old parties and conceived an idea of reformation, to which he still adheres. The third party organizations are greatly indebted to his great ability in the formulation of their creeds and discipline, and he is ever ready to bestow upon them his hearty approval of their efforts, and even in the decline of life, almost at its close, he readily raises his voice for their success and advancement.

He has written a book embracing his personal memoirs, which is soon to be placed upon the market, and many are looking forward in anxious anticipation to its perusal. His own work will so fully and graphically portray his military and public career, that it is thought quite unnecessary to attempt a portrayal of it in this short sketch—suffice it to say, that the taint of dishonor has never lurked about him; no suspicion has ever rested upon him; no challenge has ever been made of his sincerity, his honesty of purpose, or his transactions

in business life. He has lived a long and honorable life and filled a great and unexampled career, and when his life shall have closed, his name will be unsullied, and his memory will live on as one of the most remarkable characters in American history.







Henry Cladwell

# HENRY CLAY CALDWELL.

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BY WARREN WATSON.

IT is a suggestive fact that the profession of the law, more than any other avenue of human advancement, has always despised such adventitious circumstances as birth and fortune and bestowed its honors upon talent and industry alone. That the great lawyers of the English race, and especially of our branch of it, have come almost solely from the cottage and farm rather than from the mansions of wealth and ease, may be accounted for by the circumstance that no other pursuit in life requires a more remorseless sacrifice of personal tranquility, or a more thorough devotion to a single object. It has been often said that the law is a jealous mistress and permits no rivals. Those whose inclinations, and means to gratify them, induce the mingling of other pursuits and distractions with the study and practice of the law, can rarely hope to rise beyond mediocrity, whatever their talents or their eminence in other walks of life. It is for this reason that he whose early struggles and necessities force him to select his profession with care, and pursue it with assiduity and toil, is usually, in the end, advanced over rivals more favored by fortune and family influence.

Henry C. Caldwell is one of the most notable examples, to be found in the annals of the bar of this country, of the triumph of intellect and industry over grave and discouraging obstacles. He springs from a Scotch-Irish ancestry—a strain that

has been particularly fruitful in eminent offspring—and was born in Marshall county, Virginia (now West Virginia), on September 4, 1832, the son of Van and Susan Caldwell. His maternal grand father, an Irishman by birth, appears to have possessed some of the independence of character and strong convictions which have distinguished his descendant. Notwithstanding his nativity, which is almost synonymous with Catholicism, he became a Methodist clergyman; but when the encroachments of the British government resulted in the war of 1812, his loyalty and sense of duty led him to forsake the safe refuge of the pulpit and to enlist in the army, and there he cheerfully surrendered his life in the defense of his adopted country.

The parents of Judge Caldwell belonged to that sturdy and vigorous class which has led the march of emigration from the Atlantic to the Pacific, relying upon strong arms, resolute hearts and the favor of Providence in their conflicts with wild men, wild beasts and the lonely wilderness. There is something in the mental and physical characteristics of the early pioneers, in their energy, hardihood and adaptability to conditions, that tends to enlarge and strengthen both the bodies and the minds of their offspring. The courage and self-confidence required for the march into an unknown world, the laborious wresting of a subsistence from uncultivated nature and the intrepidity that could pass through a thousand perils and disasters as though they were the ordinary incidents of life, all these combined to form a mould of humanity whose representatives, in the second and third generations, have been conspicuous and influential in every phase of American political professional and business life. Judge Caldwell was well endowed in this respect. In 1836 his parents removed from Virginia across vast untrodden solitudes to the then Territory of

Wisconsin and settled in the southern portion of that part which afterward became the State of Iowa.

The Territory of Wisconsin had been formed in the year of the Caldwell's settlement from portions of the Territories of Missouri and Michigan, and this was again sub-divided two years afterwards; the southern section becoming the Territory, and in 1845, the State of Iowa. These rapid changes indicate the primitive nature of the settlements at first and the large influx of population in a few years thereafter. Indeed, at the time Van Caldwell arrived in the Territory it was still practically Indian country, and remained so for many years. The Sacs and Foxes occupied much of the southern and eastern portions of the State and the famous Sac chief, Black Hawk, after his subjugation in the great "Black Hawk War," pitched his tent near to the cabin of the Virginia settler, and the pale-face and the late implacable enemy of his race became warm friends before the latter's death, in 1838. So closely, indeed, were the two races intermingled that young Caldwell acquired a thorough acquaintance with the Indian tongue and a thorough knowledge of Indian customs and character. His recollections of these early days and experiences often serve "to point a moral or adorn a tale," in his conversation and more public utterances. Related in his vigorous and graphic manner they frequently assume an epic character. An illustration of his happy use of these memories may be seen in an address delivered by him at the Commencement of the Arkansas Medical College, at Little Rock, in 1888, entitled, "The Priest and the Physician," in which he describes a visit paid by his father and himself to the dying Black Hawk and the incantations of the "Medicine Man" in the vain attempt to restore the old Chief to health.

Naturally the means for acquiring an education were very slender in a region so remote from old and well settled communities; but Van Caldwell gave his son all the

advantages that these means offered and the latter did not fail to make the most of his slender opportunities. After a boy-hood and youth in which there was sufficient out-door toil and exercise to give him a powerful and commanding physique, and enough of books to spur up his intellect and awaken ambition, he entered, in his seventeenth year, the law office of Wright & Knapp, at Keosauqua, Iowa. His progress was so rapid and satisfactory and the excellence of his personal character so well recognized, that he was admitted to the Bar in his twentieth year and very soon thereafter was taken in as a junior member of the firm. His success as a practitioner was immediate and he took rank at once as one of the ablest among the younger lawyers of the State. In 1856, at the age of twenty-four, he was elected prosecuting attorney of the district and two years thereafter, in 1858, he was elected a member of the Legislature. For two sessions he served as chairman of the judiciary committee of the Lower House and his legal acquirements and strong common-sense, as well as his out-spoken hatred of shams and frauds of every description, made him a marked and influential member. If subsequent events had not opened for him a career of honor and usefulness under other skies, there is not a shadow of doubt but that he would have reached a position of eminence in the community which had so early recognized his abilities and worth.

In the meantime the great Civil War, long looked forward to with fear and trembling by all good citizens, was fast becoming a pressing and horrible reality. Sumter was fired on and the flag could no longer protect Americans from each other. At the first mutterings of the inevitable tempest, the young lawyer and legislator dropped his books and his pen to take up the sword in support of the Union; turning his back upon all civic ambitions to enter an untried profession and to

imperil his life in obedience to the convictions of a patriot. The recognition of his qualities as a leader of men and as a diligent and energetic actor, in whatever scene he might be placed, followed him into his military career. In 1861 he was commissioned major in the Third Iowa Cavalry, and he was afterwards successively promoted to be lieutenant-colonel and colonel, of that noted regiment. His predecessor in the colonelcy was General Bussey, the present assistant secretary of the Interior, and his successor was General Noble the present secretary of that Department. It is needless to say that Colonel Caldwell was an efficient and energetic officer. Those who served with him assert that his martial bearing and commanding figure were most inspiring to his soldiers on the march and in the field; and that they were always ready to obey a leader whose command was "Come, Boys!" and not "Go, Boys!" In his official report of the capture of Little Rock, General Davison says of him: "Lieutenant-Colonel Caldwell, whose untiring devotion and energy never fags, during night or day, deserves for his gallantry and varied accomplishments as a cavalry officer, promotion to the rank of a general officer." Where the reminiscences of his comrades and the recorded voice of his superior officer harmonize so completely, there is surely nothing fulsome in asserting that Judge Caldwell was a gallant and intrepid soldier, and that he would have reached a high command had he remained in the service till the close of the war. But there were other duties owed by good citizens to their country at this juncture, besides those that pertain to the soldier; duties that required the highest faculties and rarest temperaments for their adequate performance. Upon the pacification of Arkansas, it was necessary to put in operation there the machinery of peaceful government and to reorganize the United States Courts, and President Lincoln looked about him anxiously for

men to whom this delicate trust could be safely confided. As said by a writer in the *American Law Review*: "In a time of political trouble like that, a judge was required who should possess undoubted courage and firmness, as well as integrity and sound legal knowledge. President Lincoln literally took Colonel Caldwell, of the Third Iowa Calvary, out of the saddle and put him upon the Bench."

His appointment as District Judge for the District of Arkansas, was made in June, 1864, and in the following year the United States Courts were opened with crowded dockets containing cases that involved all the difficult and intricate questions growing out of the war. It may be easily conceived that under these circumstances the Federal Bench was not a bed of roses. In fact, Judge Caldwell's task was a most difficult and delicate one. A task that required a much more comprehensive grasp of affairs and a more penetrating and sagacious judgment than is usually demanded for judicial positions. This task he performed bravely, firmly, impartially and judiciously. To use again the language of the writer just quoted: "He resolutely kept his court out of political entanglements. He displayed upon the Bench a tact and penetrating common-sense, which is a higher quality than mere learning, though he was not deficient in that. He held the scales of justice so evenly that he soon acquired the confidence of the Bar and the public." His court was the first one in the seceded States to pass upon controversies arising out of the war, and it is a signal testimony of his fitness for the place that his rulings, with a single exception, were affirmed by the Supreme Court.

From the time of his appointment by President Lincoln, until March 4th, 1890, Judge Caldwell continued to occupy the Bench as District Judge. Judge David J. Brewer, Circuit Judge for the Eighth Circuit,

having been previously appointed to be one of the Associate Justices of the United States Supreme Court, President Harrison, on the date last named, selected Judge Caldwell to fill the vacancy thus caused and he has since exercised the duties and functions of his high office, throughout the immense Circuit in his charge, to the satisfaction of lawyers, litigants and the general public. It is well that he is gifted with a magnificent physical development, as well as a robust temperament, for no other one of the Federal circuits is more exacting in its demands, or more difficult to cover. Two of his predecessors, Judges Dillon and McCrary, were fain to escape the toils and burdens of their "uneasy station" by a return to private life, and the other, Judge Brewer, was glad to sail into the haven of the Supreme Court, after a few voyages over the wide and rugged sea of the Eighth Circuit.

This extensive Circuit, stretching from the Mississippi to the Rockies and from the British line to Texas and Louisiana, embraces ten States, Minnesota, Iowa, Nebraska, Missouri, Kansas, Colorado, Arkansas, North and South Dakota and Wyoming—covering nearly one-fourth of the entire area of the United States and Territories, exclusive of Alaska. Much of this country is new and its development has been so rapid and the interests and industries of its people are of so varied a nature that almost every branch of the law comes up for adjudication almost constantly in actual cases in court. Some of the States it comprises are agricultural, some pastoral, some mining, as to their principal industries; and in all, novel questions arising daily, almost, under untried or experimental legislation on commercial, financial and reformatory subjects. The extension of railway systems into the West, with all the concomitant litigation following in the train of enterprises of this character, has contributed to swell the volume and to in-

crease the difficulties of the task imposed on the judicial office. So vast has the domain of jurisprudence grown in our day that many of its subjects are now cultivated by specialists who rarely practice outside of their chosen specialty; yet the Federal jurist must be prepared to hear intelligently and decide promptly, questions involving patents, mining, admiralty, public lands, etc., as well as the usual controversies arising at the common law. In the Eighth Circuit the diversity of pursuits followed by the people and the wide field of action imposes a larger burden than usual on the judge and he must be of more than ordinary caliber to satisfy the requirements of his irksome duties.

In the short time that Judge Caldwell has been on the Bench he has demonstrated his fitness for the position of Circuit Judge by the character of his decisions. As District Judge his opinions may be found scattered through the volumes of the Bankrupt Register. Dillon's Reports, McCrary's Reports, the Federal Reporter and other law periodicals; and these have been universally regarded by the Federal courts with great respect. His decisions as Circuit Judge may be found in the Federal Reporter and cover a wide range of subjects. All of them are characterized by clearness and vigor of expression; there is never any doubt as to what his decision is in any case. He has the rare faculty of arranging his ideas in a logical and consecutive method without resorting to pen, ink and paper. His oral decisions read quite as well as his written opinions.

Judge Caldwell is little given to rhetorical flourishes in writing or delivering his opinions, but possesses, nevertheless, a terse and vigorous style. The writer already quoted, in discussing his manner upon the Bench, says: "His thoughts steer through cob-webs, shams and trivialities and go right to the point. He is one of those judges, of which there are too few, who know the use

and abuse of what is called technicalities. His way of thinking as a judge, is happily illustrated by an anecdote of him that was told the writer not long since. A Saint Louis lawyer had occasion in argument in his court at Little Rock, to defend, on technical grounds, what we shall assume to call a fraudulent assignment by a failing debtor. The legal propositions which were put forward in argument were cogent; they were well supported by precedent; they were hard to answer except in one way and that was the way in which Judge Caldwell answered them. 'Brother G.' he said—he always addresses an attorney at the bar as brother—'I should like to have you explain how Mrs. ——— went to bed at night not owning a dollar and woke up in the morning finding that she was worth \$30,000.'" Upon the Bench Judge Caldwell is eminently a business judge and dispatches the cases before him with a rapidity that is apt to astonish and, sometimes, dismay a lawyer accustomed to more leisurely methods. It has been said by some that Judge Caldwell sometimes displays impatience in the trial of a case involving long arguments and inquiries; but the least acquaintance with his manner and methods convinces everyone that his so-called impatience is simply a determination to cut off idle wrangling and useless verbiage and to reach substantial results without unnecessary delay or prejudice to the rights of the parties. He does not believe that a judge should divest himself of common-sense in order to be impartial and judicial. Whatever of worldly wisdom he has gained in the practical affairs of life is applied, so far as may be properly done, to the furtherance of justice in the trial and decision of controversies in court.

In one of those pungent and practical addresses for which the judge is famous in Arkansas, delivered at the dedication of the court house, at Malvern, he de-

scribed his own qualifications as a jurist, quite unconsciously, in the following statement of what a judge should be: "He must know some law—no man can know all the law; and have a strong and unerring sense of justice, which is better than learning in the hair-splitting and technicalities of the law, which often defeat, rather than promote, justice. He must have moral courage and be indifferent alike to censure and applause. He must be serene and tranquil under all circumstances, for emotion is the grandest of levelers and impairs the force and dignity of magistracy. He must not believe without reason nor hate on provocation. His constant contact with the injustice and wickedness of men must not shake his faith in the virtue of mankind, for it is the bad and not the good that are most commonly brought before him. He must be mild and compassionate, but firm, inflexible and just. He must hear before he decides, for Solomon says: 'He that answereth a matter before he heareth it, it is folly and shame unto him;' but he must not delay justice to hear those, in the language of Job, 'that darkeneth counsel by words without knowledge;' and finally divested of all hopes and fears, his judgment must be controlled by force alone of the law and the evidence." That Judge Caldwell possesses these faculties and characteristics in full measure will not be gainsaid by anyone who has observed him upon the Bench. They are qualities which make him an ideal *nisi prius* judge as well as a safe and conservative appellate judge. The Eighth Circuit, which has been favored with such a transcendent line of judges as Dillon, McCrary and Brewer, can congratulate itself in the fact that its good fortune continues in their successor.

Judge Caldwell has always taken an active interest in the affairs of his adopted State, and has had much to do in the task of extricating it from difficulties and

shaping its destinies since the war. While he possesses few of the arts of the platform orator or the stump speaker, yet there are not many public men whose influence over an audience is so profound and radical. His public addresses, full of pungent and striking observations and practical wisdom, have been directed against abuses and shams in the real experiences of life, rather than to the exploitation of literary or visionary fancies. He is not one of those who subscribe to the axiom, "Whatever is, is right." No matter how strongly time and custom have entrenched a wrong, Judge Caldwell does not hesitate to attack it with vigor and impetuosity. One can almost see again, when reading one of his speeches, the fearless, active and devoted soldier described by General Davison.

Amongst his most widely known addresses are those upon the following subjects: "The Insecurity of Titles to Real Estate," "The Relation of Debtor and Creditor," "Interest," "The American Jury System," "A Lawyers Address to a Lay Audience." These titles sufficiently indicate his solicitude to be of practical service to his fellow-citizens, and his disposition to discuss subjects that the timid and time-serving evade habitually. He was actively instrumental in securing the enactment of a law which secures to married women in Arkansas the absolute ownership and enjoyment of their separate property, free from the control of the husband and the claims of his creditors. It was largely through his influence and devotion to the cause of temperance, that the present laws of Arkansas regulating the liquor traffic were passed---laws which are pronounced by many authorities to be the best in the United States. And it is attributable to his efforts more than to those of any other one man, that Arkansas abandoned the antiquated and cumbersome system of common law pleading for the modern code procedure.

When attacking what he conceives to be an evil or a wrong, the Judge takes off his gloves and throws away his scabbard.

In his address on the relation of debtor and creditor, generally known as the address on "Anaconda Mortgages," he thus describes a condition of things in Arkansas calculated to make the blood of every right thinking man boil with indignation: "All over the rich cotton lands of this State the dews of heaven, the April showers, the summer rains, the snow with its fertilizing treasures, and the frosts that loosen the ground, are impiously mortgaged before they touch the earth; aye, for months and years before they are generated in God's laboratory. The fruits of the earth while yet in her womb are laid under tribute; and how and for what? The instant one of these anaconda mortgages is executed the maker becomes practically the slave of the mortgagee. He is deprived of all means of obtaining credit elsewhere. He is compelled to trade with the holder of the mortgage. He cannot object to the quality of the goods offered to him nor to the price charged. If he wants a pair of number eight shoes and the trader has an unsalable pair of number ten boots he must take the latter; if he wants a bushel of corn-meal and the trader has a barrel of sour flour, he must take this at a price double that of a sound barrel. If the season is favorable and the industry of the tenant is likely to be rewarded with a bountiful crop, worse and worse commodities at higher and higher prices are forced upon him, until the limit of his crop is reached. The hard-working and fortunate tenants are in this way forced to pay the debts of the idle, the vicious and the unfortunate; and at the end of crop-gathering time there is no difference in the financial condition of the two classes. I presided at a trial where it became necessary to enquire into the actual capital invested in a sheaf

of these mortgages, and it was shown that the goods had been sold at from one hundred and fifty to three hundred per cent profit!" The Tsar of Russia gives as a reason for his ukase expelling the Jews from that country, that they were oppressing and impoverishing his subjects by their usury and extortions. If they were guilty of such conduct as the Arkansas sharks described by Judge Caldwell, one cannot condemn the Tsar for driving them out of his dominions. Unfortunately we are without such summary remedies for evils like these in this country. But the Judge gave his audience such excellent advice that they proceeded to scotch the serpent if they could not kill it. Under the impulse of this and similar addresses the roused farmers organized themselves into what is known as the "Wheel" societies, lately such potent factors in Arkansas politics and law-making.

In all the revilements poured out by the South against the "Carpet-bagger" Judge Caldwell escaped unscathed. The poisonous flies of scandal never swarmed around his head, and so clean and pure did he keep the "jewel, reputation," that not even his bitterest enemy attempted to cloud it with the breath of slander. When other and less scrupulous men were taking advantage of the prostrate South to better their fortunes Judge Caldwell busied himself to protect the down-trodden and unfortunate. He found his reward in the esteem and confidence such conduct is sure to inspire; and, caring most for treasures like these, he was willing to forego the more specious and pompous solace of wealth and luxury.

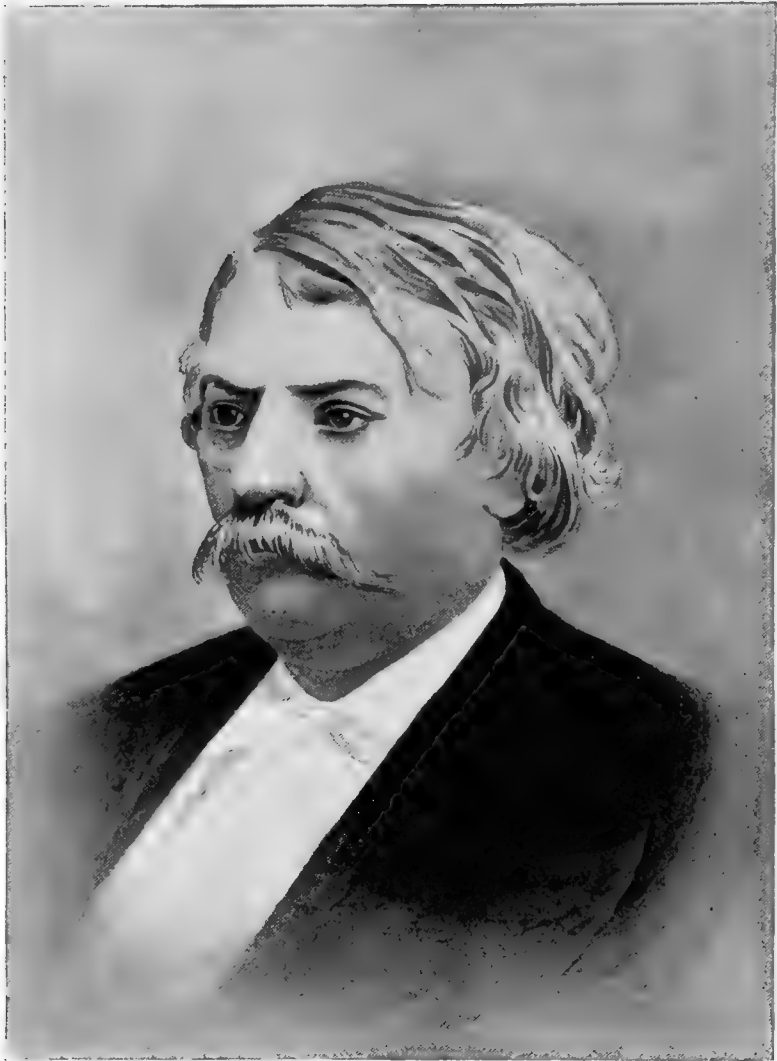
Early in his judicial career he threw aside all expectation and desire for wealth, feeling that the pursuit of lucre was incompatible with the character of a judge. The small salary of his office sufficed and still suffices for his simple wants. Whenever his salary is received it is

placed in his wife's hands, who acts as his almoner, and to use his bluff way of speaking, the Judge's wants are supplied by her "just like those of the other children." This lady, whose maiden name was Harriet Benton, and who is the niece of Hon. G. Wright, of Iowa, was wedded to Judge Caldwell on March 5, 1855. They have three children, a son, a daughter thirteen years of age, and an older daughter who is happily married to George W. Martin, of Little Rock, and is the mother of three children.

Judge Caldwell has received the degree of LL. D. from Little Rock University and is a member of the Loyal Legion and the G. A. R.—being also one of the Council of Administration of the latter organization.







*M. H. Carpenter*

## MATTHEW HALE CARPENTER.

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HON. JEREMIAH S. BLACK said of him, after a suit before the Supreme Court of the United States, in which he was opposed to Mr. Carpenter, and which the latter won: "He is the first Constitutional lawyer in the country."

Matthew Hale Carpenter was born in Moretown, Vermont, on the 22d day of December, 1824, and died in Washington, D.C., February 24, 1881. Mr. Carpenter was appointed a cadet in the Military Academy at West Point in 1843, when he was nineteen years old, at which famous institution, he remained for two years, and then returned to his home in Vermont, abandoning a prospective military life, in order to adopt the profession of law. He immediately entered the office of Paul Dillingham, who afterward became Governor of the State, and whose daughter he married. He must have early developed a taste for the profession in which he became so eminent, as we find it recorded that when but sixteen years of age, he tried a suit in which he was plaintiff and his grandfather defendant, and gained it. His first fee for trying a cause was a gold ring of the value of five dollars.

He was admitted to the Bar in 1847, when twenty-three, at which time he was so attracted by the eloquence of Rufus Choate, who was then in the prime of his manhood, that he left Vermont and repaired to Boston, for the purpose of becoming a student in that great man's office. It was not long before the young lawyer himself became prominent at the Bar, and the suit that first

brought his great natural talents into notice was a celebrated land suit, in which trial were opposed to him, J. R. Doolittle, Daniel Cady and Abraham Lincoln. He was employed in the *quo warranto* case, which was tried in January, 1856, resulting in the ousting of William A. Barstow from the governorship of the State of Wisconsin. By the talent he exhibited in that suit, he was brought more prominently still to the notice of the public as a great lawyer, and at the conclusion of the trial, he determined to settle in Milwaukee, which was his home from that time forward.

Politically, in his earlier days, Mr. Carpenter was a Democrat, but when the Civil War was inaugurated, so thoroughly was he attached to the cause of the Union, that as a war Democrat, he abandoned his law practice and stumped throughout the West in the interest of recruiting the army. He was at the same time appointed Judge Advocate General of the State of Wisconsin.

Early in 1868, the then Secretary of War, Edwin M. Stanton, invited him in conjunction with Lyman Trumbull to represent the Government in the celebrated McCordle case before the Supreme Court of the United States; a suit brought to test the validity of the Reconstruction Act of March 7, 1867, which up to that time was considered the most important case ever litigated before that high tribunal, not even excepting the world-famous Dred Scott suit. The renowned Pennsylvania jurist, Jeremiah S. Black was the opposing counsel. The case was decided in favor of the Government, and it was after Mr. Carpenter's appearance in that suit, that Judge Black made the remark concerning his qualities as a Constitutional lawyer, quoted in the first paragraph of this sketch. When Mr. Carpenter had concluded his brilliant and unanswerable argument to the Court, the Secretary of War threw his arms around Mr. Carpenter and exclaimed: "Carpenter, you have saved us."

His wonderful success in this trial, caused General Grant and Mr. Stanton to urge upon the leading Republicans, of Wisconsin, to send Mr. Carpenter to the United States Senate; accordingly, the suggestions were acted upon, and Mr. Carpenter was elected, taking his seat in that body on the 4th of March, 1869, and serving until the 3d of the same month in 1875. In that branch of Congress, he was immediately placed on the Judiciary Committee and also on the Committee on Patents and on the Revision of the Laws. Mr. Carpenter did not give up his law practice upon his entrance into the Senate, as so many lawyers have done, but continued actively at work in the trial of many important cases coming before the Supreme Court. He was re-nominated for re-election in the Republican caucus, for the Senate, but was defeated on joint ballot of the Legislature by a bolting minority of sore-heads of the party in a coalition with the opposition. In 1879, however he was elected again, and served until his death in 1881, before one-third of his term had expired.

The country is more familiar with the life of Mr. Carpenter as a Senator, where his thrilling utterances are a part of American history, than his fame as a lawyer; but his professional brethren, who were in the practice contemporaneously with him, know that his record as an advocate brought out his brilliant talents to greater advantage than in the Councils of the Nation, or on the political rostrum. As one of his memorialists has well and truly said: "His charm as a speaker was before a jury, in the defense of some alleged crime, where his massive form, graphic and powerful appeals, his innate fund of illustration of every conceivable form, rendered his arguments almost irresistible. He was so plain, so conclusive and persuasive, that the jury would hang enraptured on his words and stories, wondering who could answer his flights of fancy or turns of ingenuity. He

was a born, trained, accomplished, successful advocate. He won all cases by tact, clearness and sterling common sense. He never confused his juries, always reasoned with them, to them, and through their own channels of every day thought. They admired him as a sort of general-in-chief in the court room. He was a mixture of Clay and Webster, with an individuality clearly his own. Tall, strong, commanding, impulsive, full of vital energy, reaching an early prime and an early grave, he has stamped his character upon history in letters bold and indelible."

There was no member of the Bar of the Supreme Court during Mr. Carpenter's era, to whose speeches that august tribunal gave more courteous attention, or in which the honorable Judges seemed to take a pleasurable interest. It was not altogether attributable, perhaps, to the logic always, though that was ever fine, but to the advocate's magnificent presence, his voice and the charm of his delivery. Another of his eulogists said of him in referring to this feature of his legal character before the Court: "He had a way of saying things that was peculiarly his own, without affecting or seeming to be peculiar. He talked about the points involved in a case and discussed grave and weighty questions of law almost as a bird sings."

Mr. Carpenter all through his life was a marvel of indefatigable industry. He worked for all that the world gave him both in reputation and in wealth. No one has ever attained the distinction to which he arose in the Senate and in the courts without that indomitable love for hard study and labor in the dark hours of the night, with only the lustre of the lamp for inspiration, such as characterized his work-a-day life. Genius is born, but she is not generous without that self-help she demands as her co-operator, and all stories of greatness achieved without this adjunct of individual labor are false, and their exponent never existed in the flesh.

It was said of him, showing what an indefatigable laborer he must have been during his whole life, "that he had never rested a day, or taken a vacation since his admission to the Bar."

From an address delivered before the Milwaukee Bar by Hon. G. W. Hazleton, on the 2d of March, 1881, to the memory of the distinguished lawyer, the following extracts are presented:

"Those who knew Mr. Carpenter best need not be reminded of the thoroughness with which he accepted and acted upon this inexorable law. If any one doubts his marvelous industry, let him examine the reports of the Federal Courts and the Courts of Wisconsin for the past thirty years. He worked out his results as a judicial student as the artist works out his conception from the quarried marble. He burnt the midnight oil over his cases. He left no field unexplored which could shed light upon his path, and, so with the aid of a mind naturally bright and comprehensive and a strong physical organization, he pressed his way by the most earnest application and thorough study, step by step to the front rank of a noble but exacting profession.

"He has not left behind him a more diligent, a more devoted student in the profession. The secret of his success at the Bar may be inferred from what has already been said, but it will not be deemed improper, I trust, to refer to some of his mental traits. He possessed the ability to grasp the strong points of a case, and great readiness and skill in analyzing and distinguishing, as well as applying the vital principles or doctrine of cases cited in support of, or in opposition to the case under consideration. In this particular he was conspicuous and masterly. His subtle insight, his legal acumen, his ready ingenuity were never displayed to better advantage than when he was seeking to trace a legal deduction, which he desired to establish from a mass of apparently conflicting

authorities. In this field, I venture to suggest, he has left behind him no superior. To the qualities already mentioned should be added the potency of a marvelous personal magnetism, and a wit which seemed to be as much a part of himself as the fragrance is part of the rose. A wit, moreover, be it said to his credit, as free from malice as it was spontaneous and happy. It was displayed in private conversation, in the court room, in the Senate Chamber and everywhere to the delight of his auditors. It was as sparkling as the choicest wine, and always coined upon the instant. 'Put him out!' shouted a friend of the Senator, when some one near the door interrupted the speech he was making; with an impertinent inquiry. 'No,' retorted Carpenter, instantly, 'don't put him out, change his drink!'

"During the delivery of the so-called 'Janesville Speech,' the effect of which was a matter of some anxiety to Mr. Carpenter, a confusion occurred at the rear of the hall which diverted the attention of the audience for a moment from the speaker. Turning to the chairman with a quizzical expression and an inquiring tone, he said: 'Mr. Chairman, I observe some confusion near the door; I have been endeavoring to determine whether it is occasioned by those outside trying to get in, or those inside trying to get out.' A moment later he was dashing along on the current of his thought, like a yacht before the wind."

He was a man of broad views, of warm sympathies, and of generous sentiment, and while his public career has been honorable and distinguished, it is no disparagement to him to say that his fame as an eminent lawyer and a brilliant orator will outlive his fame as a statesman. To admit that he had faults is only to admit that he was human. Let he who has none raise his hand.

Mr. Carpenter had never filled a public office, with the exception of that of District Attorney in his county,

until he was elected to that greatest of all deliberative bodies, the United States Senate. During the whole period of his term there, he never abandoned for a moment his immense law business, so it is no wonder that as has been remarked by his eloquent eulogist, above quoted, that his fame as a statesman will pale beside his fame as a lawyer. Though but forty-five years of age when he entered the Senate of the United States, his reputation as a lawyer was well known; he was at once placed upon the Judiciary Committee for which responsible position he was eminently fitted, and very soon he became a recognized authority on questions involving Constitutional Law; yet there were then in that body such giants as Conkling, Edmunds and David Davis, to say nothing of that giant among giants, Allen G. Thurman, of Ohio, to whom none is superior as a Constitutional Lawyer. If Mr. Carpenter had lived and continued in public life, what he may have achieved with his known inordinate industrial habits and wonderful forensic power, can only be conjectured.

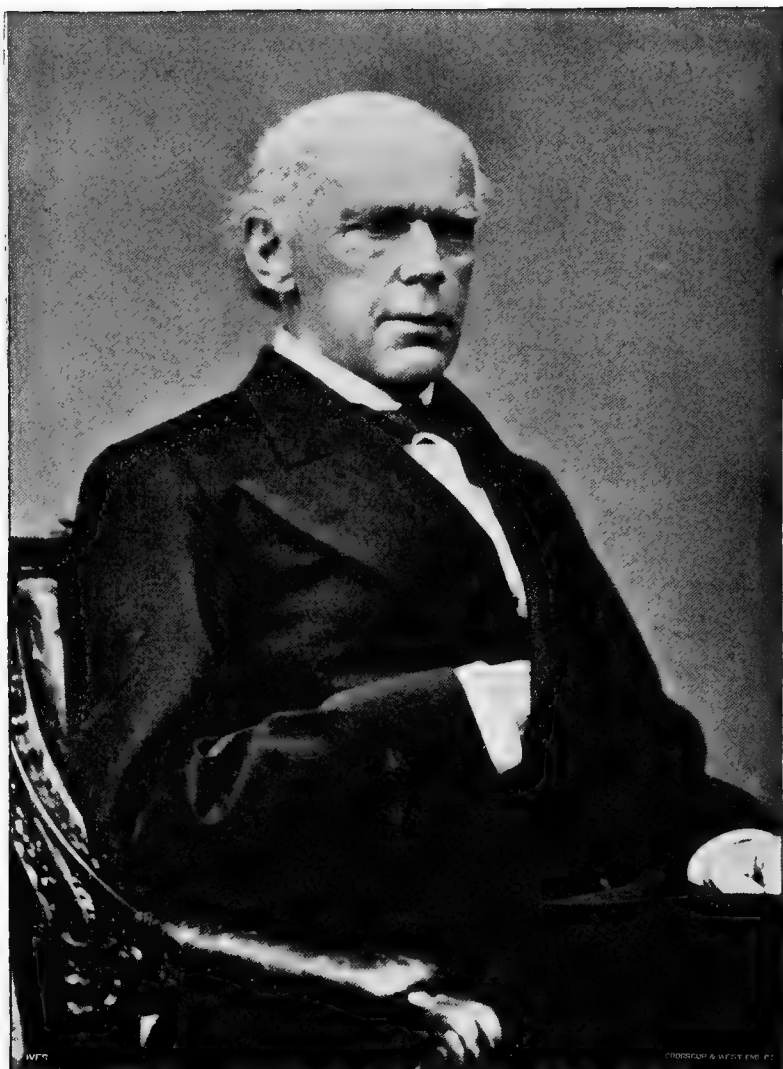
Mr. Blaine says of him in his "Twenty Years of Congress:" "He was endowed with a high order of ability; if he had given all his time to the Senate or all to the Bar, he would have found few peers in either field of intellectual combat. The truth is that Mr. Carpenter attempted to do what no man can accomplish; he tried to maintain his full practice at the Bar, and discharge his full duties as Senator at the same time. His strength was not equal to the double load. He had an agreeable voice precisely adapted in volume and tone to the Senate Chamber. He was affluent in language, graceful in manner, and beyond all, was gifted with that quality, rare and undefinable, but recognized by every one, which constitutes the orator."

Not long after his settlement in his new home, Milwaukee, he lost his sight from over use of his eyes in

study and, for a period of three years, was entirely blind. Judge Black, his intimate friend and eulogist, believed that this appalling calamity wrought Mr. Carpenter great good in the end; "It elevated, refined, strengthened all his faculties. Before that time much reading had made him a very full man: when reading became impossible, reflection digested his knowledge into practical wisdom. He perfectly arranged his storehouse of facts and cases, and pondered intently upon the first principles of jurisprudence."







*J. P. Chase*

## SALMON PORTLAND CHASE.

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THE war between the States developed many great men. One of these, the acknowledged financier of those dark days in the Nation's struggle was Salmon P. Chase, Secretary of the Treasury under Abraham Lincoln. As has been the case with the majority of our distinguished lawyers, Chief Justice Chase commenced his life on a farm. His grandfather, Samuel Chase, was one of those patriarchs of New England whose simple home and well cultivated acres rested on the Connecticut river, near the town of Cornish, New Hampshire. Seven sons gladdened the heart of this sterling and God-fearing ancestor, five of whom were graduated at famous old Dartmouth; two remaining on the paternal acres, one of whom, was the father of the great Secretary of the Treasury. All of Mr. Chase's uncles who had received college educations became distinguished men. Dudley was a United States Senator and Chief Justice of Vermont. Salmon, for whom the nephew was named, practiced law in Portland, Maine, and was the leader of the Bar. He died suddenly while pleading a case, and the city where he died became the middle name of the subject of this sketch, who was then two years old. The youngest uncle, Philander, became Bishop of Ohio and Illinois, and by him his nephew, Salmon was educated.

Salmon Portland, the subject of this sketch was born in 1808, in the heart of the White Mountains. At that early date the region was still in a condition of relative primitiveness, and consequently the opportunities

for the education of youth were limited. A tradition of young Chase's life is that his first writing lessons were upon birch-bark, so scarce was paper in the days of his boyhood, in the country where he was born. His mother was of Scotch descent, and upon the death of his father, which occurred when he was very small, she determined, although handicapped by grinding poverty in her widowhood, that her son should receive a college education. Fortunately, when he had arrived at the age of fourteen, his Bishop uncle offered to relieve the patient and religious mother of the responsibility she had marked out for herself, by taking young Salmon to Ohio, and providing for his education. His uncle was a most indefatigable worker, not only with his brain, but with his muscles as well, and all of his family were compelled to labor as hard, for he had much to attend to, and but very little money at his command. In addition to the duties which his Diocese involved he taught school and cultivated a farm, and the nephew did not escape the penalties which such a life insures.

Young Chase was troubled with a defect of vision, near-sightedness, of course incurable; he had also a defect of speech, which, like Demosthenes, he overcame by persistent will-power and a course of training in reading aloud. It is alleged that in many respects the boy's lot with his stern old uncle was relatively hard. The latter must have regarded his nephew, however, with much affection and as full of promise, as tradition confirms that view. Young Salmon one day begged permission to go in swimming, but was refused with the flattering remark to him, that the country might lose its future President, were he to consent, for he might get drowned. Remaining with his good uncle until he was well prepared by the proper training, Salmon was sent to the *alma mater* of the Bishop, Dartmouth. There are many anecdotes of his career while at that

venerable institution, one of which, so characteristic of the man, is here quoted from Harriet Beecher Stowe's "Men of Our Times:" "One of his classmates was sentenced by the faculty to be expelled from college on a charge of which Chase knew him to be wholly innocent. Chase, after vainly arguing the case with the president, finally told him he would go too, as he would not stay in an institution where his friends were treated with such injustice. The two youths packed up their goods and drove off; but the faculty sent word after them almost before they had gotten out of the village, that the sentence was rescinded and they might come back. They said, however, that they must take time to consider whether they would do so, and they took a week, having a pleasant vacation, after which they returned." Having been graduated the young future Chief Justice of the United States found himself, as thousands of other prominent Americans have, who afterward arose to eminence, entirely dependent upon individual exertions to find the means wherewith to prosecute the study of law, a profession he had determined upon.

His uncle Dudley was then a United States Senator, and to Washington Chase went, intending to teach school, but he was unsuccessful in this undertaking. He waited patiently for scholars day after day, but they never materialized. At last, when his money was all gone, he applied to the Senator for a position under the Government, in one of the Departments. The Senator, who knew full well that a life is blasted when once thrown into the ruts of Department work, so far as any distinction is concerned, refused peremptorily to aid his disappointed nephew, but encouraged him with these words: "I'll give you a half-dollar to purchase a spade, for then you might come to something, but once settle a young man down in a Government office, he never does anything more—it's the last

you hear of him. I've ruined one or two young men in that way, and I'm not going to ruin you." Discomfited and aggrieved at the apparent unkindness of his stern uncle, he set about again to look around with a view of establishing a school. Finally, after many struggles, he succeeded in obtaining one, which had already a favorable reputation, and then commenced his legal studies under the tutelage of the famous William Wirt. In 1830, at the age of twenty-two, he was ready for his examination. When the Judge had finished with him, he suggested that perhaps he had better continue his studies for another year, but upon the young aspirant for legal honors replying that he could not do that, as he was going to commence the practice in Cincinnati at once, the Judge said: "Well then, Mr. Clerk, swear Mr. Chase."

Repairing to Cincinnati, which was then only a backwoods settlement, he commenced that struggle with poverty which comes once, at least, in the life of nearly every one who has risen to eminence at the American Bar. Weeks of waiting and hope deferred, were his portion. It is related that the first and only legal work he did for many a weary week, was drawing up a contract, for which he received the munificent sum of a half-dollar; and which, in a very short time, the impecunious individual borrowed back. His first case of magnitude was before the United States Court, at Columbus, about four years after he had been admitted to the practice. When he arose to make his argument he was in a worse predicament than that attributed to James T. Brady in his first attempt to address a jury. Mr Brady said that he could see neither the jury or anything else in the room; all was perfectly black to him, but he managed to go on. Mr. Chase could not say a word, and was obliged to take his seat and wait a moment before he began again. This time he succeeded, and when the case was through one of the Judges congratulated him "on his failure," as he ex-

pressed it, when the latter asked why he was congratulated. The reason the Judge gave for the congratulation was, that his very nervousness was an indication that he would succeed in the profession, as a person of ordinary temperament would have gone through with the ordeal without showing anything of that character; that he had observed during his long experience as a Judge, that when a young man gave way once or twice to his nervousness, there were always hopes of his becoming a great lawyer.

Mr. Chase had not long been a resident of Cincinnati, before he was recognized as a young man of unusually fine talents, both in the classics and general information. This, coupled with his magnificent personal appearance, gave him the *entree* to the best circles, where he was ever a welcome guest. His practice now began to be commensurate with his social standing; he was employed by the best people of the thriving town, who not only received him as their honored visitor but as a lawyer worthy their patronage. His life was marked by that incessant industry which has characterized the lives of all our great advocates, and without which failure has been the result. He possessed that other remarkable attribute necessary to success, a wonderful power of endurance. This feature was peculiarly conspicuous during his brilliant career as Secretary of the Treasury. At this time the labor was not only incessant, but demanded a constant strain of brain power, which would have worn out any ordinary man. He was called upon continuously to resort to devices and methods within the Constitutional restrictions, to maintain the credit of the Nation, and to furnish means to carry on a great war.

Cincinnati was constantly stirred up over the feeling engendered by the close contiguity to slave territory. Those scenes of refugees from the Kentucky side

of the Ohio river, endeavoring to make their escape from bondage, and fugitive slave cases in the courts, were of common occurrence. The lawyer who had the temerity to defend one of these unfortunate beings, was in danger of ostracism, both socially and professionally. Young Chase, however, had the manhood and courage to do all this, the record of which would fill a small volume, but the story is not germane to this sketch. In every instance, nearly, the cases of fugitive slaves were decided against Chase, and in one of these, where he had volunteered to defend a slave girl against the demands of her master, under the plea of her having run away from his plantation, it is recorded that after the attorney had finished a most eloquent appeal in her behalf, a spectator remarked: "There, that fine young fellow has just ruined himself." In those trying times, when the feeling of antipathy to anything that savored of "Abolitionism," developed often into the most demonstrative action on the part of those who took sides with the institution, Mr. Chase showed that personal courage which characterizes all true men.

It will be remembered by the students of those troublous times, that James G. Birney, who was a southern abolitionist, after first manumitting all his slaves, removed to Cincinnati and started a paper, having for its purpose the most ultra anti-slavery intent. For some days the city of Cincinnati was besieged by a desperate crowd from over the river, swearing the direst vengeance upon Birney and his abolition sheet. They succeeded in destroying his office completely; burning down free negroes' cabins and did a hundred outrageous things that a wild mob, inspired by fury, will do anywhere. After destroying Birney's property, Mr. Chase ascertained by watching them and catching the drift of their intention, that they fully meant to take the life of the man who had so grievously offended them. Upon learning this

fact, Mr. Chase repaired at once to the house where Mr. Birney resided, and when the mob came up fully intending to carry out their threat, Mr. Chase stood alone confronting them with arguments against their acts already committed, and the general wickedness of their proceedings so eloquently, that he held them at bay until the hounded Birney escaped.

In 1847, Mr. Chase was elected Governor of Ohio, and two years later United States Senator. From this date commences his remarkably brilliant political career, entering the Upper House of Congress as the colleague of the famous Tom. Corwin. When Abraham Lincoln became President of the United States, in 1861, he called Mr. Chase, who had been one of his rivals in the nominating Convention, to the Cabinet as Secretary of the Treasury.

It was evident that the revenue, which, at the beginning of the great Civil War was about sixty millions a year, would suffice for less than a few weeks. The new Secretary demanded of Congress over three hundred millions for the first fiscal year, which was raised by a system of direct tax, loans and other methods. The credit of the country was maintained and the sinews of war furnished to carry on the awful struggle. The Nation, of course, came out of the conflict enormously in debt, but in a condition to meet all of its war obligations, without too great a burden for the people to bear. The financial history of the Government during the war, under Secretary Chase's administration of the Treasury, is not germane to this sketch of the man, and the student is referred to the history of those times to understand and comprehend the magnitude of the labor imposed upon the officer in charge of the country's purse.

In October, 1864, upon the death of Chief Justice Taney, of the Supreme Court of the United States, Mr. Chase was elevated to that position by President Lin-

coln. What a wide and apparently impassable gulf from the struggling young advocate in the wilds of Ohio, to the exalted place on the Supreme Bench of this great country? Yet this is only another confirmation of the statement that everything is possible for the American boy. Neither poverty or birth are obstacles to the attainment of the highest positions in the gift of the people.

Chief Justice Chase's legal career at first, was a series of disappointments. Case after case was decided against him, though this was not because of any want of ability, but because he took up the cause of the despised Negro slave under that clause in the Constitution which was the basis for demanding that fugitives should be given up to their masters. Consequently he had no practice at first, as he was tabooed for his course in defending the slaves. He was a great jurist and his ability in the cases decided against him in the old slave days, was the admiration of the very Judges before whom he appeared. About this time the great Kentuckian, John Van Zandt, conceiving that slavery was wrong, freed his own slaves and settled on a farm near Cincinnati. Van Zandt gave food and shelter to all the fugitives who sought his hospitable home. Mr. Chase's argument before the United States Court on the trial of Van Zandt, was very full, and so able that the presiding Judge did not attempt to answer, but without even referring to the argument, decided over it, and against the cause for which it plead. It is unnecessary to mention these turbulent days, except to state that the course Mr. Chase pursued, was prompted by his honest convictions, to which he adhered with firmness and intrepidity, even in the hour of peril.

When the Senate sat as a Court of Impeachment, in the trial of President Andrew Johnson, Chief Justice Chase presided, and many of the ablest lawyers the country has ever produced, appeared on one side or the

other. His conduct during this memorable struggle with the Chief Magistrate of the country has never been severely criticised. Many things, however, were said and done by great men in those times, stimulated by the sentiments of their constituency, which cannot be sanctioned in this day, but Mr. Chase from the first to the last of this eventful trial, presided with the dignity becoming one in his exalted position. History records his acts as fair, impartial and just, according to his consciousness of right and wrong, and the intelligence with which nature had endowed him.

Mr. Chase had Presidential aspirations and his former political proclivities were considerably modified in an attempt to reach the exalted station he sought. For this he has been censured, but such is the fate of all who delve in the unsatisfactory and unsatiable field of American politics. This mistake, as well as those of nearly every public man, can be traced to the intriguing designs of ambitious politicians, who are ever ready to disturb the successful career of any great man. Lincoln had enemies—who has not—and Chase was reluctantly used to supplant him. It was a useless attempt and no one regretted it more deeply and sincerely, than Mr. Chase himself.

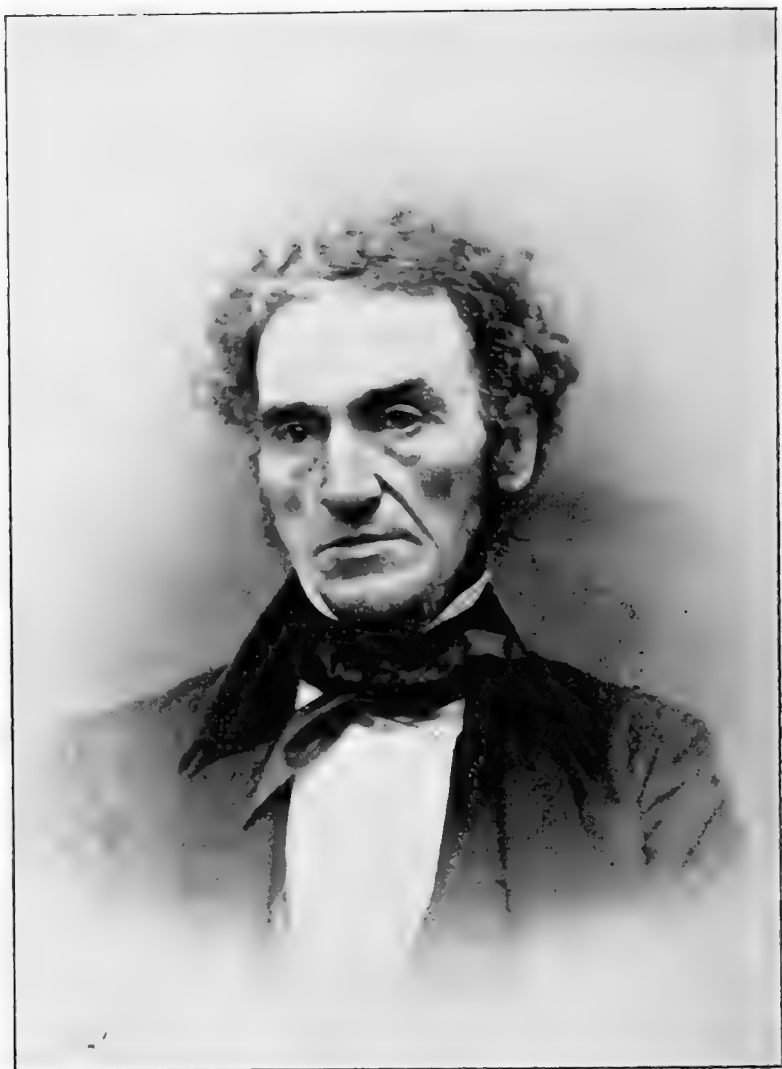
His first literary efforts were an edition of the Statutes of Ohio, with copious notes and a history of the State, which he prepared while absorbed in the labor of a large practice. The history is a production characteristic of its author. Native genius is discernible throughout. The fortunate possessor of a copy of the original edition, prizes it as a rare treasure, and a household relic.

Chief Justice Chase died in the City of New York, on the 7th day of May, 1873, in the sixty-sixth year of his age, closing a long, active, useful and illustrious career. Great is he, whose deeds done in the body, raise

an imperishable monument to his memory. Such greatness is a priceless heritage to posterity, and its living reward for the achievements of men. No one, in the hour of death, should be more calm and peaceful, than he who leaves behind him such a remembrance to his earthly career, and a grateful people to revere his distinguished name.







*Rufus Choate*

## RUFUS CHOATE

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THE student of legal biography, who may, perhaps, by reading this sketch of Rufus Choate, be inspired to seek a more complete history of the famous lawyer's life, will be dazzled in all probability by his great intellectual powers, but it must never be forgotten that he seems to have been conscious of them himself, in a measure, at least in his youth, and that he regarded his genius only as containing the possibilities of becoming learned. Thus he avoided that *Charybdis* of self-confidence, which has wrecked so many promising young men, who really possessed genius, but believed the fruitage of their career would ripen spontaneously.

Rufus Choate was born at Ipswich, Massachusetts, on the first day of October, 1799. He pursued his studies at home until he arrived at the age of fifteen, when he was sent to the Academy at Hampton, New Hampshire. The next year he entered Dartmouth College, and after he was graduated, he remained for another year as tutor. Then he attended the Law School at Cambridge University, completing the full course. He then entered the office of William Wirt, Attorney General of the United States. He was admitted to practice in 1823, establishing himself at Danvers where he remained five years. During this period, he married Miss Helen Olcott, a lady of remarkable grace and accomplishments.

In 1828, he removed to the old town of Salem, and was elected to Congress. He served through the term,

was re-elected, but at the close of the first session, resigned and settled in Boston.

While at Dartmouth, he was not compelled to teach to meet his expenses, which seems to have been, in the majority of instances, the fate of great men. He alludes to this exemption in a letter dated December 5, 1815, written to his brother, in which he gives an account of his expenses, and further says: "Only about ten or twelve of my class remain. The rest have taken schools. How thankful I ought to be that I am not obliged to resort to this for assistance. We who remain have a chance to improve in the languages particularly."

At the earliest age, he possessed a remarkable passion for reading; by the time he arrived at the age of six, he had devoured the "Pilgrim's Progress," and at ten, had read every book that the village library contained. He was a student and an omnivorous reader all his life. "In his journal, Mr. Choate describes his studies; tells how the early hour was employed. He had a few minutes with favorite authors, English, Greek, Latin, French, often a lesson from each, and then the genius of law beckoned him away. It was a rule with him to read at least one page of some law book daily. All this to keep the simple elements of the law fresh in his mind; a purpose from which not even the delights of travel, of new scenes and associations could wholly divert him."

In a letter giving advice to one of his law students, Richard S. Storrs, Jr., Mr. Choate says: "As immediately preparatory to the study of the law, I should follow the usual suggestion to review thoroughly, English history, constitutional history, in Hallam particularly, and American constitutional and civil history in Pitkin and Story, Rutherford's Institutes, and the very best course of moral philosophy you can find, will be very valuable introductory *consolidating* matter. Aristotle's Politics, and all of Edmund Burke's works, and all of Cicero's works would

form an admirable course of reading, 'a library of eloquence and reason,' to form the sentiments and polish the tastes, and fertilize and enlarge the mind of a young man aspiring to be a lawyer and statesman. Cicero and Burke I would know by heart; both superlatively great, the latter the greatest, living in a later age, belonging to the modern mind and genius, though the former had more power over an audience, both knew everything. I would read every day one page at least, more if you can, in some fine English writer, solely for elegant style and expression. William Pinkney said to a friend of mine, 'he never read a fine sentence in any author without committing it to memory.' The result was decidedly the most splendid and most powerful English *spoken* style I have ever heard."

Mr. Choate believed in that discipline and study which makes strong and intellectual men; no better example of his definition of the idea can be found than in his own character. In one of his addresses he thus spoke of this benefit of labor and privation in the formation of great characters: "It has been said that there never was a great character, never a truly strong, masculine, commanding character, which was not made so by successive struggles with great difficulties. Such is the general rule of the moral world, undoubtedly, all history, all biography, verify and illustrate it." His greatness as an orator, in a measure at least, consisted in using "the happiest word, the aptest literary illustration, the exact detail, the precise rhetorical instrument the case demanded."

Professor Parsons says of him: "With all his variety and intensity of labor, there was nothing he cultivated with more care than words. Pitt thought verbal study important when he went twice through Bailey's Dictionary, carefully considering every word. So also did Choate when he formed the habit of reading the Dictionary by the page, and when he said to a student, 'You want a dic-

tion whose every word is full freighted with suggestion and association with beauty and power.' ”

Of Mr. Choate's style, the Reverend Doctor Hitchcock says: “Certainly he seldom failed to carry his point with any jury, or any popular assembly. He caught men up and swept them along, as the wind sweeps leaves and dust. Whoever seeks to know the secret of this will find it pre-eminently in the innermost essential character of the man. He was pure, and just, and true and tender, so that whatever he said commended, and still commends itself to what is best and highest in our common nature. He was not only thoroughly good, but his goodness was fine and chivalric. The fascination was moral. The heart was captured first and after that the imagination. His marvelous fertility of invention, wealth of allusion, and swift succession of inimitable felicities of thought and diction never seemed like devices to blind and betray the judgment, but came as naturally as the bloom of fruit trees or the foam of crested waves. His voice was one of a thousand, of ten thousand rather, now like a flute for softness, and now like a clarion.”

A letter from one who knew Daniel Webster well, written to the author of one of Mr. Choate's biographies, describing an occasion when Choate was speaking upon a familiar topic, when Webster was in the audience says: “As Choate approached the climax, Webster's emotion became uncontrollable; the eyes were filled with tears, the great frame shook, he bowed his head to conceal his face in his hat, and I almost seemed to hear him sob.”

His first speech in Congress is thus commented upon in the books: “Benjamin Hardin, from Kentucky, said: ‘I was captivated by the power of his eloquence and found myself wholly unable to move until the last word of his beautiful speech had been uttered.’ James Buchanan said: ‘It is the first appearance of Mr. Choate in debate here, and judging others by myself, I must say, that

those who have listened to him once will be anxious to hear him again.' Alexander H. Stephens said: 'Every one was enraptured with his eloquence; ever after this speech I never let an opportunity go by to hear, Mr. Choate. I consider him the most interesting man for impassioned oratory I ever heard. He has a faculty which few men possess, of never tiring his hearers. Several years after, I heard him in the Supreme Court argue the case of the boundary-line between Rhode Island and Massachusetts. It was as dull a case as an ordinary land ejectment suit. I was at a loss to understand how Mr. Choate could interest an audience under such circumstances. The court had been occupied five days by some of the ablest lawyers. The room was thronged to hear Mr. Choate's reply. From the moment he commenced, he enchained the audience and enlivened the dull subject by apt historical allusions and pleasing illustrations. The logical connection of his argument was excellent, and so well arranged that in two hours he had finished a thorough argument which was interspersed throughout with a sublime imagery. Every paragraph was as the turning of a kaleidoscope, where new and brilliant images are presented at every turn. At the conclusion of that speech, I was confirmed in the opinion that he was the greatest orator I ever heard, in this respect greater than Calhoun, Clay or Webster."

Mr. Choate's cultivation of words, or rather his choice in their selection as has been alluded to, was remarkable. One of his biographers, Mr. Neilson, in treating of his wonderful vocabulary, says: "I have caused all his words found in print, by diligent search, to be written down and classified according to their derivation, and the percentage of the whole which each class furnishes ascertained. But dates, proper names, and quotations have been omitted, and repeated words avoided; the question really being as to his total vocabulary, and not as to the

frequency with which any class of words reappear in his writings. I find that Mr. Choate used 11,693 unrepeated words. Milton used 8,000 and Shakspeare, 15,000."

But the sphere in which Mr Choate was most ambitious to excel, and in which he achieved his most signal success, was the law. A leader of the Boston Bar, who knew him most intimately, says: "He could read the mind and infer the character of a jurymen or a witness with wonderful readiness and certainty. I have sat by him in court when jurors were selected, and when witnesses, strangers to him, were called, and been told what he thought of each in turn, and I cannot remember an instance in which he was mistaken."

Matthew H. Carpenter, himself a great lawyer and statesman, who studied law with Mr. Choate, said: "It was one of the efforts of Mr. Choate's professional life to extend and perfect what he called a lawyer-like memory. In his view, a mere every day memory, left to take care of itself, would not enable an advocate so to hold in mind as to instantly recall, for use, the facts disclosed in a long trial before a jury, and the name, appearance and manner, the speech, too ready or too reluctant, of each witness examined. Mr. Choate had found that special kind of memory improved by reading fragments of authors on divers disconnected subjects, and recalling and repeating them after his books had been laid aside.

"Whether his case was large or small, whether his cause was upon the civil or the criminal side of the court, whether his client was rich or poor, or his fee was a large or a small one, he went into it thoroughly prepared and ready at all points, and when in, he gave to it his whole energy and spared nothing which could insure success.

"His love of epithets was remarkable and the richness of the vocabulary so great that often it might be said of him, as it was of Shakspeare, that he needed somewhat to be restrained. But many as were the adjec-

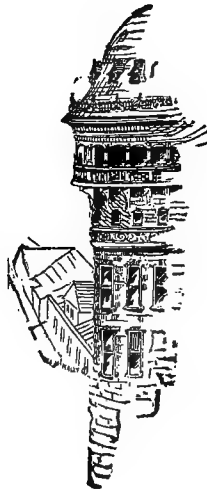
tives he habitually used, they were never idly strung together without definiteness and distinctness of meaning. 'In his manner to the Court, he was always deferential and respectful, even when the judge was his junior in years or his inferior in learning or ability. Indeed, courtesy, a kindness of manner, was a part of his nature, which he uniformly exhibited in his intercourse with the Bar as well as with others.'

"When he died, therefore, he left no wounds for time to heal; no resentments for injuries unatoned; and when with what he might have regarded as still many years of brilliant success before him, he died at the age of fifty-nine, every one felt there was a void which no one could fill within the circle in which he moved; while to such as knew him in the more intimate relations of private life, it was the loss of a companion, a friend endeared by the qualities which men love and admire."

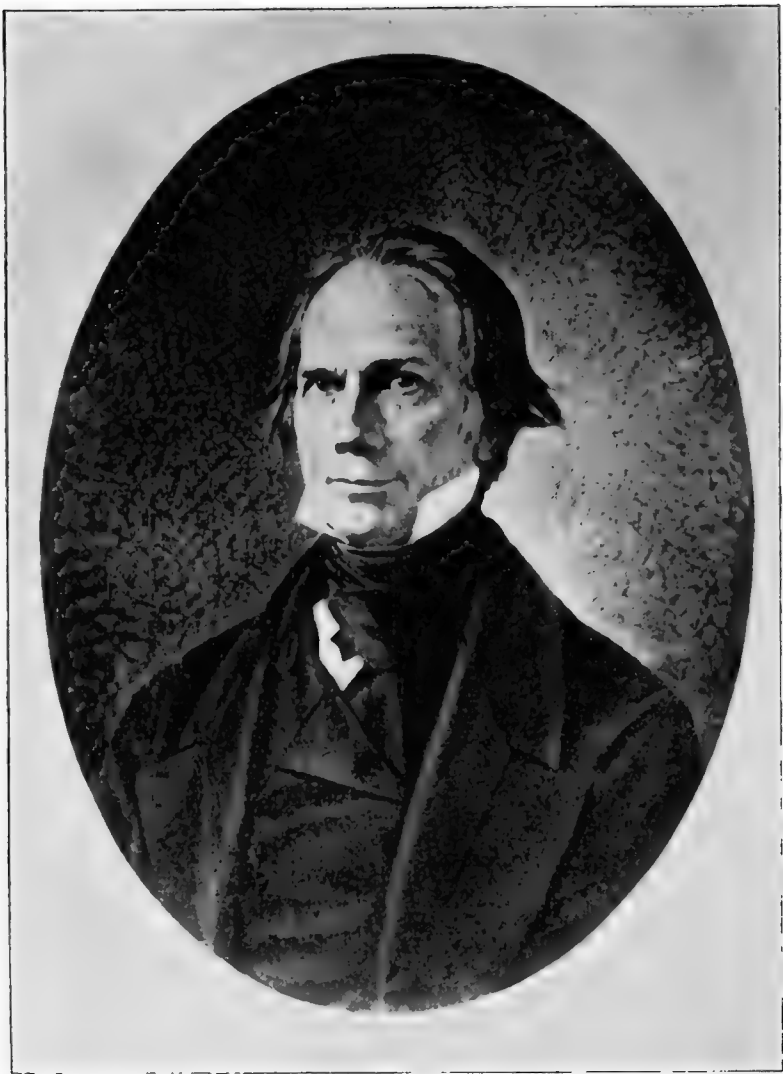
The Bar of the country has been, within the last few years, considerably attracted by the ability of Mr. Joseph H. Choate, of New York City, a brilliant descendant of the great Boston advocate. He is said in many respects to equal his ancestor, and to excel him in physical endurance. His income is princely, the result of evident genius and indefatigable industry.

Rufus Choate died in the year 1858, in the fifty-ninth year of his age. Many of his admirers contend that he was the greatest lawyer ever living in any age, and there are many good reasons for the assertion. There are in the daily record of this eminent advocate's life, so many examples worthy the earnest emulation of the student, the lawyer, even the statesman. In reviewing his course of mental discipline, no better model could be presented, in all that is required to make the ripe scholar, the thorough lawyer. His aim to learn something every day, could only be attained by persistent study. Not in the manner of the midnight student, but by generous,

pleasant hours, devoted to what pleases, cultivates and elevates the mind in the domain of the profession or, in general literature. It is earnestly desired that this sketch will stimulate the reader to seek a more extended biography of this man's life, and that the student will be inspired to emulate the methods his genius adopted to make himself the master of a noble profession, and distinguished among the greatest of men.







*H Clay*

## HENRY CLAY.

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HENRY CLAY was a thorough type of the American boy in the early days of the Republic. His education was begun in the rude log cabin of his ruder local surroundings, and in his youth, poverty was his companion, as it has been of many other great men of the world.

He was born in Virginia on the 12th day of April, 1777, in Hanover county, a swampy, low country, locally known as, "The Slashes." Years afterward, when he had risen to the position of the greatest orator and statesman in the land, and was a candidate for the Presidency, "The Mill-Boy of the Slashes" was a stirring campaign watchword, and Henry Clay is still frequently referred to by that *sobriquet*, when his name or political career is discussed. The term is thus traced to its origin by one of his first biographers: "It had its foundation in the filial and fraternal duty of Henry Clay, who, after he was big enough, was seen whenever the meal barrel was low, going to and fro on the road between his mother's house and Mrs. Daricott's mill on the Pamunkey river, mounted on a bag thrown across a pony guided by a rope bridle. Thus he became familiarly known by the people living on the line of his travel, as "The Mill-Boy of the Slashes."

The father of Henry Clay, who was a Baptist minister, died just at the close of the war of the American Revolution, leaving his widow poor indeed, with a little family to support and educate. Young Clay remembered perfectly well some scenes of the war, which he used to

relate after he had arrived at manhood, though when they occurred he could not have been more than five years of age.

Until he was fourteen he grew up as hundreds of other country boys of his day ; limited to the merest rudiments of an education in the rough cabins at the cross-roads, and taught by some renegade from the old country, who, in many instances, had left his country for his country's good. At the age of fourteen, however, his whole life was changed for the better by the fortuitous marriage of his mother to Mr. Henry Watkins, who immediately removed the family with the exception of young Henry, to Kentucky, who was placed in a store in Richmond. While in that position he seems to have attracted toward him the clerk of the Chancery Court, a Mr. Tinsley, who persuaded him to enter his office. His industrious habits, his intelligence which had already been noticed, and his entire disregard for those games and pastimes generally so attractive to boys of his age, caused the venerable Chancellor Wythe himself to make him his amanuensis. The good Chancellor, however, did not keep him rigidly within the strict limits of a mere clerk, but made him his pupil and showered upon him the gifts of learning with which the exalted tutor was endowed. Under the dictation of legal opinions by the Chancellor, young Clay first drank in those theories of the law which his kind employer expounded as he commented upon the text he was reciting to his eager amanuensis. At that time Hon. Robert Brooke was the Attorney General of Virginia, and shortly after severing his connection with the clerk of the Court, he went to reside with that gentleman, under whose tuition young Clay read, and in a short time received a license to practice in the Court of Appeals. He was now twenty years old, and determined to emigrate to Kentucky, where all his immediate family had preceded him. With his license

to practice and all his worldly goods, he left Virginia in the fall of 1797, and settled in Lexington, Kentucky, a mere village at that early date, where he hung out his "shingle" and began the practice of law.

His habits of study were not relaxed in the slightest degree upon the accession of his authority to practice law. He had set rules in relation to methods of occupying his mind during the hours of suspension of office business. Oratory was his ambition, and to reach the eminence which history has accorded him in this particular, he labored hard and continuously for many years before he attained that goal of his dreams.

When he was practicing his incipient oratory, his custom was to read carefully and commit to memory, a chapter or two from some history or other useful work of information, and then proceeding all alone to the woods, if the weather was fair, or to some unoccupied and retired outhouse if the weather was stormy, he would deliver in a speech to the air, or to the domestic animals present as an audience, what he had previously stored in his mind. This statement was made in after years to a class of law students he was addressing, when he had reached the zenith of his fame as an orator. These facts are confirmatory of what has been said in other sketches in this book, that genius alone will never accomplish the realization of its hopes without some such assistance. Commencing with Demosthenes through all the ages that have produced orators, severe and continued training has been a necessary preliminary to success.

Henry Clay had been particularly blessed by nature, with those physical attributes indispensable to brilliancy in the forum. He had a remarkable voice and his mental adaptation was of the highest order. His success as a lawyer was immediate. His colleague, Senator Joseph R. Underwood, when announcing the death of Henry

Clay to the United States Senate, said: "His physical and mental organization eminently qualified him to become a great and impressive orator. His person was tall, slender and commanding; his temperament ardent, fearless and full of hope; his countenance clear, expressive and variable, indicating the emotion which predominated at the moment with exact similitude. His voice, cultivated and modulated in harmony with the sentiment he desired to express, fell upon the ear like the melody of enrapturing music. His eye beamed with intelligence; his gestures and attitudes were graceful and natural. These personal advantages won the prepossessions of an audience, even before his intellectual powers began to move his hearers, and when his strong common sense, his profound reasoning, his clear conceptions of his subject in all its bearings, and his striking and beautiful illustrations, united with such personal qualities, were brought to the discussion of any question, his audience was enraptured, convinced and led by the orator as if enchanted by the lyre of Orpheus."

In 1845, in his seventieth year and seven years before his death, he was thus described: "Mr. Clay is a tall man—six feet and one inch; not stout, but the opposite; has long arms and a small head; always erect in standing walking or talking; in debate still more erect; has a well shaped head and a dauntless profile, an uncommonly large mouth, upper lip commanding, nose prominent, spare visage and blue eyes, electrical when kindled; forehead high, sloping backward in a curvilinear line that bespeaks the man; hair naturally light, and slow to put on the frosts of age; withal displaying a well-formed person and imposing aspect, with which it is supposed an amateur connoisseur in human shape and countenance would not be likely to find much fault."

Very naturally, Mr. Clay's forte as a lawyer was in the trial of criminal cases. His wonderful persuasive

powers before a jury, where a life depended upon the verdict, was the opportunity for that wonderful display of enthusiasm which never failed to infuse itself into the natures of the twelve men in the "box" who dwelt enraptured upon his words. He was equally successful in civil cases.

The very first year of his residence in his adopted state, young Clay was drawn into the sphere of public life, in which he afterward continued through a long and wonderful career of brilliancy and honor. The Constitution of Kentucky at that time was in a state of transition, and he took part in the discussions provoked by the intensely exciting questions involved in the period of adjustment. He was in favor of the gradual emancipation of the slaves, although the idea was remote from popular, but notwithstanding he urged the insertion of his favorite clause fearlessly and eloquently.

In 1802 Mr. Clay, who was then only twenty-five years of age, began his career in public life, by being elected to the Legislature of Kentucky, where he immediately took a prominent stand as a debater, but still continued in the active practice of his profession, which had increased in a wonderful degree.

It was a rule of his professional life never to deny his legal assistance to any client who needed his fearless advocacy. The most prominent of such cases is that of Aaron Burr, on his famous trial for treason, who had pledged in writing to Mr. Clay that he had no treasonable motives. He was thus induced to undertake his defense, for which he would accept no fee. Afterward, however, when he ascertained that he had been deceived, he refused Burr's hand upon meeting him in New York City.

In 1806, before Mr. Clay had attained his thirtieth year, he was elected to the United States Senate to fill a vacancy, and notwithstanding he was ineligible, thirty

years being the minimum age, he was permitted to take his seat without challenge or controversy. The term for which he was elected expired with the single session in which he made his appearance, but he at once took a prominent part in the advocacy of a system of internal improvements to which doctrine he ever afterward adhered with all his eloquence and persistence. While serving for a few weeks in the United States Senate, he was again elected to the Legislature of Kentucky, and when he took his place in that body, an outrageous motion had been made to exclude from the courts of Kentucky any law precedents emanating from the English courts of law. He distinguished himself in this discussion, pleading with that eloquence and characteristic earnestness, for the common law. He also approved the Foreign policy of Mr. Jefferson's administration in relation to the British orders in council, in consequence of which the President's action concerning the "Embargo" was taken, Mr. Clay introducing a series of resolutions to that effect, which were carried with but one dissenting vote, that of Humphrey Marshall.

With this gentleman Mr. Clay shortly afterward had a difficulty which led to a personal encounter. Mr. Clay made a proposition that the members of the Legislature should confine their dress to cloth manufactured exclusively at home, in order that they might by these measures do their share towards alleviating the distressing times that affected the whole country. Mr. Marshall alluded to this suggestion of Mr. Clay's with great contempt, and his remarks resulted in a duel, in which both principals were wounded, having exchanged shots twice, Mr. Marshall receiving a shot at the first fire, and Mr. Clay at the second.

Three years after his first short term in the United States Senate, in the winter of 1809, Mr. Clay was again sent to represent Kentucky in that branch of Congress,

to fill a vacancy as before. It was during this session and on the occasion of his first speech there, that he announced what has since been termed the "American Policy." It was on the discussion of an amendment for the purchase of munitions of war, which the amendment recited should be of American manufacture, as a preference. It was during that session also that he agreed with Mr. Madison, in his declaration, that Western Florida was an integral part of the "Louisiana Purchase," stating in his remarks on that occasion in reference to England's threats: "Is the rod of British power to be forever suspended over our heads? Whether we assert our rights by sea or attempt their maintenance by land—whithersoever we turn ourselves, this phantom incessantly pursues us."

In 1811, from choice, he was sent to the Lower House of Congress, and on the first ballot was elected Speaker, a mark of distinction never before or since awarded to a new member. For five consecutive terms the House honored Mr. Clay with the Speakership. He was a vigorous advocate of the prosecution of the war with England, and at its close was one of the commissioners on part of the United States, to negotiate a treaty with Great Britain. The following story is told of him while abroad on this mission: "One morning he received by his servant, at Brussels, a package of newspapers, a usual courtesy, from the British negotiators, but this time rendered more interesting by the papers containing an account of the burning of Washington. He not long after took occasion to send a file of newspapers in return, having some intelligence on the subject of the Indians, which was required in the negotiations, the same papers repaying the Washington item with a narrative of McDonough's affair on Lake Champlain."

While in Paris he heard of the battle of New Orleans, the treaty between the two countries having been

concluded before that engagement, concerning which he remarked: "Now I can go to England without mortification."

Another anecdote from Sargent's life of Clay is here presented: "On his visit to Paris at this time, Mr. Clay was received with great favor in society. Among other distinguished persons whom he met was Madame de Stael, at a ball given by M. Hottinger, the banker, on the occasion of peace between the United States and Great Britain, when the following dialogue occurred:

"'Ah!' said she, 'Mr. Clay, I have been in England, and have been battling for your cause there.'

"'I know it, madame; we heard of your powerful interposition, and we are very grateful and thankful for it.'

"'They were very much enraged against you,' said she; 'so much so that they at one time thought seriously of sending the Duke of Wellington to command their armies against you.'

"'I am very sorry, madame,' replied Mr. Clay, 'that they did not send his grace.'

"'Why?' she asked, surprised.

"'Because, madame, if he had beaten us we should only have been in the condition of Europe, without disgrace. But if we had been so fortunate as to defeat him, we should have greatly added to the renown of our arms.'

"She afterward introduced Mr. Clay to the Duke, at her own house, and related the conversation. The Duke replied that if he had been sent on the service and had been so fortunate as to gain a victory, he would have regarded it as the proudest feather in his cap."

When Mr. Clay was Secretary of State, he challenged John Randolph to mortal combat for some remarks made by that gentleman from his place in the United States Senate, which was promptly accepted by Mr. Randolph, and a duel was fought on the banks of the Potomac. The account of this famous encounter is taken from Gar-

land's life of John Randolph and Benton's Thirty Years View: "The first fire of neither took effect, though both shots were well aimed. At the second, Mr. Clay's bullet pierced his antagonist's coat. Mr. Randolph, as he had all along intended, though he was diverted from this course in the first instance, fired his pistol in the air, upon which Mr. Clay advanced with great emotion, exclaiming: 'I trust in God, my dear sir, you are untouched; after what has occurred, I would not have harmed you for a thousand worlds.'"

In 1842, owing to political complications, Mr. Clay retired for a time from public life, and his farewell address to the Senate, or rather that portion in which he pays a tribute to his adopted State, is here given, which shows his great eloquence:

"Everywhere, throughout the extent of this great continent, I have had cordial, warm-hearted, faithful and devoted friends, who have known me, loved me and appreciated my motives. To them, if language were capable of fully expressing my acknowledgments, I would now offer all the return I have the power to make for their genuine, disinterested, and preserving fidelity and devoted attachment, the feelings and sentiments of a heart overflowing with never-ceasing gratitude. If, however, I fail in suitable language to express my gratitude to *them* for all the kindness they have shown me, what shall I say; what *can* I say at all commensurate with those feelings of gratitude with which I have been inspired by the State, whose humble representative and servant I have been in this Chamber? I emigrated from Virginia to the State of Kentucky now nearly forty-five years ago; I went as an orphan boy who had not yet attained the age of majority; who had never recognized a father's smile nor felt his warm caresses; poor, penniless, without the favor of the great, with an imperfect and neglected education, hardly sufficient for

the ordinary business and common pursuits of life; but scarce had I set my foot upon her generous soil when I was embraced with parental fondness, caressed as though I had been a favorite child, and patronized with liberal and unbounded munificence. From that period the highest honors of the State have been freely bestowed upon me, and when in the darkest hour of calumny and detraction, I seemed to be assailed by all the rest of the world, she interposed her broad and impenetrable shield, repelled the poisoned shafts that were aimed for my destruction, and vindicated my good name from every malignant and unfounded aspersion. I return with indescribable pleasure to linger a while longer, and mingle with the warm-hearted and whole-souled people of the State; and when the last scene shall forever close upon me, I hope that my earthly remains will be laid under her green sod, with those of her gallant and patriotic sons."

Mr. Clay really believed that he was bidding farewell to public life, but he was not correct in his belief; he was shortly afterward nominated for the Presidency, but at the election was again defeated, James K. Polk, of Tennessee, being the successful candidate. Even then Mr. Clay did not long remain in retirement. In 1849, he was again elected to the United States Senate for a full term. He did not live to complete it, however, death coming to him on the 29th of June, 1852, when but half of his term had passed





*James C. Lee*

## GROVER CLEVELAND.

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**D**ESCENDED from an English ancestry which settled in Massachusetts over two hundred years ago. Grover Cleveland, twenty-second President of the United States, may lay claim to be as thoroughly American as any of his distinguished predecessors who have occupied that exalted position.

The great-great-grandfather of Mr. Cleveland, was the great-grandson of Moses Cleveland, who emigrated from England about fifteen years after the landing of the Pilgrims at Plymouth, and settled at Woburn, Massachusetts.

William Cleveland, grandfather of the subject of this sketch, was a watchmaker and silversmith at Worthington, Massachusetts, where his reputation for honest and thorough workmanship was proverbial over that portion of the country. Watches made by the Yankee manufacturer, it is said are still in existence and doing good service.

The son of the watchmaker, Richard Falley Cleveland, father of the President, was sent to Yale College by his parents, who intended to make a minister of the Gospel of their son, from which venerable institution of learning he was graduated in 1824. But it seems he was broken down in health, and that fact coupled with an innate spirit of independence, which his distinguished son inherits, he left the parental home to become a tutor in Baltimore. In that town, always famous for its pretty girls, he fell in love with Miss Annie Neale, whose father

was a prosperous law book publisher, of Irish descent, and her mother a German Quakeress of Philadelphia. Not possessed of sufficient means to embark upon the sea of matrimony, even with his father's help, he determined to continue his studies for the ministry and after teaching one more year in Baltimore, he entered Princeton College, New Jersey, completing the prescribed three years course, and then accepted the charge of a Congregational church in Windham, Connecticut, and shortly after was married to his first love, Miss Annie Neale, in 1829. From Connecticut he went to Portsmouth, Virginia, where he took charge of the Presbyterian church, for a year, and in December, 1834, he removed to Caldwell, New Jersey, and was installed as minister of the Presbyterian church of that village. It was there, on the 18th of March, 1838, that Stephen Grover Cleveland was born, the fifth of nine children. The first baptismal name of Stephen was given him in honor of his father's predecessor in the pulpit of the little church at Caldwell, but it was almost instantly discarded, and he was called "Grover" only.

When Grover had attained his fourth year, his parents removed to Fayetteville, New York, where Mr. Cleveland had been called to assume charge of a church. In Fayetteville, the future President of the United States remained until he was fourteen, growing up as all other boys have, who reside in a country village attending the district school, fishing, swimming, and hunting, and indulging in all those sports common to strong country boys. His father carefully watched the education of his numerous children, as it was his original intention to send his sons to college, the great benefits of which he knew so well himself. After attending the district school for two years, young Grover was placed in the Academy, but for some reason, remained only a short time, and upon leaving which, he entered the village store as a clerk

at a salary of fifty dollars for the first year, to be increased proportionately, in the future, dependent upon his efficiency. Before young Grover had completed his second year as clerk, however, his father was appointed Agent of the American Home Mission, with headquarters at Clinton, New York, for which duty he received a salary of one thousand dollars a year, a much greater sum than he had ever received before, and, of course, his family accompanied him. Here Grover entered the Academy with the intention of preparing for his entry into college, receiving in addition to the regular academical course, private instruction in the classics from the Reverend Doctor Hyde, a retired clergyman. In 1853, Grover having now arrived at the age of sixteen, his father was called to the church at Holland Patent, a short distance from the town of Utica, but he had been settled there scarcely a month, when he died very suddenly, aged only forty-nine.

The unlooked for death of the head of the family, completely disarranged all plans for the future of his sons, he had so carefully marked out, and also the prospects of the other members of his large family. Pinched by the meagerness of his income, which in those days was never enough to support a clergyman, and those dependent upon him, in a style beyond what was sufficient to feed and clothe them respectably, it became apparent at the death of the father, that all the children, who were old enough, would have to shift for themselves and aid the others of a tender age. College for Grover had to be abandoned, and he was compelled to start out, and seek his own livelihood.

Now was developed that characteristic independence and ability to "get along in the world" which he derives from his ancestors by the laws of heredity. One of the ancestors of the family, a prominent Episcopal clergyman, of Philadelphia, was a warm personal and intimate friend of Benjamin Franklin, under whose roof

he died. He left a widow, almost without means, but with the characteristic pluck of her side of the house, she opened a small store in Salem, Massachusetts, by means of which she was enabled to support her large family, and educate her children properly. It was her husband, who while on a visit to England, in 1775, searched for the derivation of the family name, and became satisfied that the proper spelling of it was "Cleveland" and not "Cleaveland," as many of the other American branches continue to spell it. His own immediate descendants adopted the former way. The son of this clergyman, Aaron Cleveland represented his town, Norwich, in the Connecticut Legislature, and in that body introduced a bill to abolish slavery. He afterward became a congregational minister, and died in 1815, always leading a true American life in the most rigid acceptance of the term.

So it does not appear strange that the distinguished subject of this sketch, should possess those many strong characteristics of industry, firmness and force of character for which he is noted, as he comes honestly by them through a long line of hardy, versatile and honorable ancestry.

At the time of his father's death, although Grover Cleveland was but sixteen years old, he procured, through the assistance of his brother William, who was an instructor in the institution for the blind, in the City of New York, a position as clerk and assistant teacher in that charitable establishment. His brother, who fortunately being older, had been graduated at Hamilton College a short time before, and upon the entrance of young Grover into the institution, he immediately took him under special charge and instructed him in the classics and English literature during his leisure moments. He remained in the asylum for the blind for a year, at the end of which time he returned home, where he continued

his studies, and also sought for other employment. Finally, imbued with that spirit, which it is alleged Horace Greeley gave a fresh impetus to by his memorable saying, "Go West, young man," Grover started in the direction of the horizon, the hunger for which, seems to be a born attribute of all Americans who first see light on the Atlantic slope.

The determined young Grover stopped at all the principal towns on his route, but was unsuccessful in finding anything to do, until he arrived in Buffalo, where he had an uncle living, and upon whom he, of course, called. This uncle was Lewis Allen, a noted stock-breeder, and publisher of the "Herd-book of American Short-horn Cattle." To him the nephew unfolded his plans for seeking fortune in the great West; but the uncle did not take kindly to the proposition and persuaded his nephew to remain in Buffalo, inviting him to assist in getting out the forthcoming volume of his "Herd-book," for doing which he was to receive fifty dollars. He was also promised a place in some office, where he could commence the study of law, as he had already determined to adopt that profession.

To execute the promise in relation to placing his nephew in a lawyer's office, was not as easy as the payment of the fifty dollars for work on the "Herd-book," and so it was not until the 18th of August, 1855, that he entered one; then he entered that of Rogers, Bowen & Rogers, as general office-boy. He at once set himself at work with all the perseverance for which he is noted, and that dauntless industry which is also part of his nature, not only to make himself master of the law, but to make himself indispensable around the office as well. During the period of his novitiate he resided with his uncle, who lived some two miles from town, but he was always the first person at the office, whether in sunshine or in storm, and the last to leave his desk at night. So

useful did he become, and so earnestly did he work, that early in the fall he was allowed a salary of four dollars a week—rather an innovation on the general method adopted toward boy students in law offices. This salary was increased frequently, and a very short period after he was admitted to the bar, young Cleveland, because of his extraordinary tact and worth, was placed over all the other clerks in the establishment, as their manager. For the duties which this position involved, he received a salary of six hundred dollars a year, which was gradually increased to one thousand, in 1863, when he had arrived at the age of twenty-five. At that date he severed his connection with the office of Rogers, Bowen & Rogers, to accept the honorable position of Assistant District Attorney for the county in which he resided. To this office he was called without any solicitation on his part; a feature of his career that has marked his whole political life. Never has he asked for any of the great offices which have come to him. Mr. Cleveland was reluctant to accept the appointment of assistant to the District Attorney, for the principal reason that the salary attached, was only a little more than half of what he was already receiving, a serious matter to a young man who was struggling with poverty. He was exercising the most rigid personal economy in order to contribute his share toward the support of his widowed mother, and those of the family who were too young to aid themselves. It did not seem to him that he could afford to make the sacrifice of half his salary, for the honor and prestige, that the acceptance of the office would bring him. He at last yielded, however, to the importunities, and advice of friends, who convinced him that the value of a public position like the one he was urged to accept, was of infinitely greater importance to him at that juncture than the question of money. It would bring him, a young lawyer, prominently before the people and the notice of the profession, give him a reputa-

tion which otherwise it might take long years to attain, and put money in his purse eventually, much sooner in point of time, than he had calculated upon. Mr. Cleveland entered upon his duties with all the zeal and energy of his youth. His superior, the District Attorney, resided twenty-five miles out of the city and was delighted to have an efficient assistant, who was willing to do as much work as he was willing to leave. This position gave Mr. Cleveland an opportunity to develop his indomitable habits of industry. The records show that he was in attendance at everyone of the twelve grand juries which met during each of the three years of his term of office, and presented in full a large majority of the cases which were taken to the court. The indictments in nearly every instance too, were drawn by him, and more than half the cases were prosecuted by him. Frequently, during the busiest months, he appeared in four different cases before a jury, in one day, won them, and immediately after he had eaten his supper, would sit down at his desk to prepare his work for the following morning and often it was far distant into the small hours before he retired, yet he was up at eight o'clock and in his office, ready for the day's contest.

In the year 1863, the nomination of County Supervisor was tendered him, which he reluctantly accepted, although success was impossible, as the ward in which he resided was overwhelmingly republican and always conceded to them. But Mr. Cleveland just escaped election by thirteen votes, while the rest of the candidates on the Democratic ticket for the other offices, were more than two hundred votes behind him; a remarkable evidence of his personal popularity, and the faith of the people in his integrity and executive ability. Four years later, in 1867, Mr. Cleveland accepted the nomination on the Democratic ticket for District Attorney of his county, but was defeated by one of his most intimate friends, Mr.

Bass, who subsequently became his partner in the practice of law. In the same year, Mr. Dorsheimer was appointed by President Andrew Johnson United States District Attorney, and he immediately tendered to Mr. Cleveland the position of assistant, which, however, was respectfully declined, but at Cleveland's suggestion, the place was given to Mr. Oscar Folsom, who also became a partner of Mr. Cleveland later on. At this time Mr. Cleveland had attained quite a reputation as one of the leading jury lawyers of his county and his services were in constant demand, both on account of his marked ability and the great confidence reposed in him by the community at large.

Mr. Dorsheimer relates that one day in the fall of 1867, Mr. Cleveland came into his office to consult and obtain his advice upon a purely personal matter. Mr. Cleveland had just been proffered the nomination by his party, for sheriff of the county, and for various reasons was in doubt whether to accept it. For that reason he had come to him for an opinion as to the advisability of acceptance or declination. Two of Mr. Cleveland's reasons were strongly in favor of accepting; one was that the office would afford him some leisure in which he could devote himself to the improvement of his mind, by a course of reading, for which he now had no opportunity; and the other was that the salary and fees attached to the office would enable him to save something, which it had been impossible for him to do, and thus he could acquire a pecuniary independence, a *desideratum* looked forward to with much satisfaction. Mr. Dorsheimer, as did a majority of his friends, advised him by all means not to hesitate any longer, but to accept at once. Mr. Cleveland acted upon the advice thus heartily and honestly given him, and was elected by a large vote. Mr. Dorsheimer adds: "He used the opportunities of the position as he said he would. He

made a considerable saving, and he gave his leisure to professional studies. As soon as he returned to the Bar the effect was noticeable; he was a stronger and broader man than he had been before, and at once took a higher position than he had ever held." At the expiration of his term of office as sheriff, he promptly returned to the practice of the law, which he continued for the ensuing six years with continually increasing success.

In 1881, however, he began his remarkable political career which carried him on its wave to the highest place in the gift of the American people. At that date corruption in the government of the City of Buffalo had grown so bold and defiant, that it became incumbent upon the best citizens to take some decisive steps to break up the wholesale robbery. It was understood that if the Democrats would nominate some acceptable person, one in whom all would have confidence, the majority of Republicans would support him. It seemed that the community had in view instinctively the name of Grover Cleveland when the assertion was made, and all eyes were turned toward him. The professional politicians of his party of course opposed his nomination, knowing his character for integrity, but in spite of their efforts to defeat him, he was nominated by acclamation in the convention, and triumphantly elected by a majority of three thousand five hundred, while the Republican state ticket in the city received a majority of only sixteen hundred. The result proved that the people had made no mistake.

The new Mayor set his steady talents in operation to checkmate the cupidity of the unclean set of politicians, and thwarted their nefarious schemes on every hand. He served but a short time, having been elevated to the Governorship of the State, but during the period of his Mayoralty saved the city more than a million dollars on one transaction alone, by preventing the consummation of a

corrupt scheme in connection with the construction of a sewer. While in office in charge of the city's interests, he displayed that fearlessness for which he is noted and also a perfect familiarity with the laws governing the Municipality. He had a clear perception of the needs and rights of the Corporation, and the best methods to employ in securing them, and unhesitatingly placed the public interests above the claims of party. He proved beyond cavil, how easy it is for a man who is thoroughly honest and thoroughly in earnest, to gain the victory over corrupt combinations. Space is permitted to present but one instance of this power, and that is in relation to the sewer mentioned above. On assuming the responsibilities of the office of Mayor, in January, 1882, he called the attention of the city council to the dangerous condition of the Hamburg canal, and urged the necessity of building without further delay, an intercepting sewer, and in his recommendation, suggested that the important and costly work should be done under the supervision of a committee of the most reputable citizens. This departure from old methods did not meet the pleasure of the members of the common council, who evidently saw that they would lose an opportunity for enriching themselves out of the public treasury. So they advertised for bids in the usual way, and the lowest received was for \$1,568,000. Mr. Cleveland persisted in the adoption of his plan, and had a bill carried through the Legislature for that purpose, upon the provisions of which he nominated five commissioners to the council to direct the work, but the council peremptorily refused to confirm them. Mr. Cleveland, instead of calmly accepting the defeat of his measure, as nine men out of ten would have done, promptly sent into the council the identical five names at its next meeting, and they were confirmed by a vote of seventeen to eight. The commission was organized, and put the direction of the con-

struction of the sewer into the hands of Colonel Waring, by whom it was completed at a cost of \$764,370, saving the magnificent sum of \$800,000, which, under the old regime, would undoubtedly have gone into the pockets of the "boodlers."

Mr. Cleveland was elected Governor of the Empire State by the astounding majority of one hundred, ninety-two thousand votes, and as some politician remarked in regard to it: "It was so tempestuous in his favor, that he cannot fail to discern the power of that independent element to which he is indebted for his first, as well as his most recent triumph." Mr. Cleveland carried into his administration of that important trust the same habits of industry, the same mastery of details, the same power of long continued application, the same honesty of purpose which have crowned his life with success.

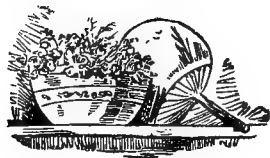
Cleveland was elevated to the Presidency of the United States in 1885, having received a majority of the votes in the Electoral College, and took his seat on the fourth of March, of that year. He was re-nominated for President at the expiration of his term of office, but was defeated. Since that time he has devoted himself to the practice of law in New York City, where he occupies a prominent position at the Bar.

Mr. Cleveland is of powerful build and his manners are agreeable; in his thoughts he is liberal, and is very democratic in his habits. He detests ostentation, is full of firmness and courage, as his course while filling the several offices to which he has been called, testifies.

The lamented S. S. Cox, in his "Three Decades of Federal Legislation," has this to say of the great chief-tain of the party to which he was such a devoted adherent, through a long and useful life: "If Silas Wright deserved to be called by Thomas Benton, the Cato of America, may we not in tracing the life of the successor

of Silas Wright, from his birth-place, through childhood as a student, following him through his professional career until his election as magistrate of a city, and then as Governor of a great State, find many of the attributes of Wright, and also something of the famous Roman? In many ways the similitude is striking; and most, that he is truthful, honest, unselfish, kind-hearted and devoted to the principles of Democracy and the welfare of his country."

The only President ever married in the Executive Mansion was Grover Cleveland. It occurred on the 2d day of June, 1886, during his presidential term. The bride was Miss Francis Folsom, daughter of a former law partner of Cleveland in Buffalo. Her beauty, charm and accomplishments are of a high order, and the grace, dignity and composure with which she discharged the duties of "First Lady in the Land," have never been excelled by any mistress of the White House since the foundation of the Republic.







*Richard Coker*

## RICHARD COKE.

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THE subject of this sketch was born in the town of Williamsburg, in the State of Virginia, on the 13th day of March, 1829. He finished his studies at William and Mary College, which was for many years the most prominent institution of learning in the South and ranked with the leading universities of the North. Its roll of graduates contains the names of many men who have attained eminence in the various walks of life, and it enjoys the honor of having been the *alma mater* of Thomas Jefferson, James Madison and John Tyler. Judge Tucker, the law professor at William and Mary, and Thomas R. Dew, the Professor of political economy, were highly distinguished in the world of letters by reason of their professional and literary attainments.

At the age of nineteen Mr. Coke received his diploma from the hands of Judge Tucker, and two years afterward was admitted to the Bar. Forty years ago Virginia was an old State and presented but few inducements to the young, ambitious barrister. He yearned for an opportunity to tread the paths which lead more rapidly to advancement and distinction than were afforded by his native State, and resolved to cast his lot in the commonwealth of Texas, which only a few years before had been admitted to the sisterhood of states. On the 7th of October, 1850, Mr. Coke settled at Waco and began the practice of his profession. As an indication of the wonderful growth of the country since, may be mentioned the fact that at that period there were not

more than three or four hundred people living in the immense scope of country between Waco and the Rocky Mountains. Without the adventitious aid of friends or fortune, he relied solely upon his indomitable will, his untiring energy, and his powerful intellect to achieve success, and his efforts were soon rewarded by a heavy and lucrative practice.

When the tocsin of Civil War was sounded and its rude alarms reverberated over the land, Mr. Coke, true to his convictions closed his law office, donned the uniform of a private soldier of the Confederate Army, shouldered his musket and hastened to the front. He served until the close of the war, having been elected captain of his company; a position which he retained until the surrender of the Confederate armies, when he returned to Waco and resumed the practice of law.

Shortly after his return home, Mr. Coke was appointed a District Judge, by Governor Hamilton, who was the Provisional Governor of Texas. His district extended from Waco to the frontier, Palo Pinto being the most remote organized county. The performance of his judicial duties was sometimes attended with great risk, as the entire territory embraced in the district was infested with hostile Indians, and it not infrequently happened that juries had to be discharged to enable their members to return to the defense of their families and homes, against the attacks of the murderous savages. The practicing attorneys, the prosecuting officer, and the District Judge, all well armed, traveled the circuit in company for mutual protection. Judge Coke narrates that during one term of his court at Palo Pinto, he and the attorneys were compelled to tie their horses to the gallery posts of their inn, in order to prevent the Indians from stealing them. Every full moon the Indians made a great raid, and at all times of the year large bodies of them were prowling through the country, stealing

horses and cattle, burning the homes of the settlers and murdering men, women and children, indiscriminately.

Judge Coke served as District Judge about one year, and while on the Bench, was nominated for the position of Associate Justice of the Supreme Court by the Democratic party, and was elected by a large majority. Another distinguished Texan, Hon. J. W. Throckmorton, was chosen Governor of the State at the same election.

Judge Coke was a hard student and an indefatigable worker during his term of service as Supreme Judge, and his decisions have always been regarded by the Bar of Texas as models of close reasoning, of legal knowledge and of vigorous English. He remained on the Supreme Bench until sometime in 1867, when he and his associates on the Bench, together with the Governor and other State officers, were removed as "impediments to reconstruction." From the close of the war, Texas had been in the throes of reconstruction. Provisional officers had been succeeded by officers elected by the people, and the latter, in turn, had been removed by the Federal Generals placed in charge of the prostrate State. At last, a Constitutional Convention was organized which framed a new constitution; and, on the 30th of November, 1869, a general election took place. Edmund J. Davis, a Republican, was declared by General Reynolds to have been elected Governor for four years, over another Republican, Jack Hamilton. A legislature was chosen and the State was thoroughly reconstructed.

In 1873, the Democrats of the State held a convention at Austin and nominated Judge Coke, as their candidate for the governorship. He was opposed by Governor Davis, who had been selected by the Republicans as their standard bearer. Judge Coke canvassed the entire State and after the most exciting political contest that has occurred in Texas since the war, he was elected

by a majority of fifty thousand votes. The Republicans, however, were not disposed to abide by the result of the election, and Governor Davis refused to vacate his office. He appealed to President Grant for aid, but his appeal was disregarded. At this critical juncture Governor Coke displayed great determination and remarkable conservatism; and by his firm, but discreet course, Texas was saved from the riotous and bloody scenes that were enacted in several of the other southern States. Governor Davis had stationed troops in the basement of the capitol with instructions to allow no person to enter.

Governor Coke called out the Travis Rifles, a military organization at Austin, and marched them to the capitol. He did not attempt to enter the basement, but proceeded to the hall of the House of Representatives, where he was inaugurated. During the delivery of his inaugural address, the shouts and clamor of the troops beneath the hall, were distinctly audible in the Representative chamber. In his message to the Legislature, Governor Coke referred to this episode in the following language:

“The floors of the hall in which you now sit had been examined by the conspirators, and it had been ascertained that the armed forces intrenched in the basement beneath could pierce them with their missiles, if necessary to attack you. Forebodings of danger to popular liberty and representative government caused the stoutest and most patriotic among us to tremble for the result. A conspiracy, bolder and more wicked than that of Cataline against the liberties of Rome, had planned the overthrow of free government in Texas. The capitol and its purlieus were held by armed men under the command of the conspirators; and the treasury and department offices, with all the archives of the government were in their possession. Your right to assemble in the

Capital as the chosen representatives of the people was denied, and the will of the people of Texas scoffed at, and defied. The President of the United States was being implored to send troops to aid in overthrowing the government of Texas, chosen by her people by a majority of fifty thousand. The local and municipal officers throughout the State, in sympathy with the designs of these desperate and unscrupulous revolutionists, taking courage from the boldness of their leaders at the capitol, were refusing to deliver over to their lawfully elected successors, the offices in their possession. A universal conflict of authority and jurisdiction, extending through all the departments of government, embracing in its sweep all the territory and inhabitants of the State and every question upon which legitimate government is called to act, was imminent and impending."

Bancroft, in his "History of Texas," referring to the same subject, says: "Much alarm was entertained that a collision would take place between the two parties. And not without some cause. The two branches of the Legislature occupied the upper story of the capitol with a company of militia as guard; at the same time Davis and the other executive officers held possession of the lower story with a company of colored soldiers, under the Adjutant-General. President Grant was appealed to, but refused to sustain Davis. Fortunately, moderation prevailed and no conflict took place. J. P. Newcomb, the Secretary of State, permitted under protest, the election returns to be delivered to a committee of the Legislature. The votes having been counted, Richard Coke was declared elected Governor by a majority of fifty thousand, and Richard B. Hubbard Lieutenant-Governor. For some days the public was agitated by doubt and apprehension, as to the probability of a peaceful solution of the dispute, but on the 19th day of January Governor Davis vacated the executive office without making a

formal surrender. Governor Coke took possession and the excitement was allayed.

"Thus terminated the contest for supremacy between the Republican and Democratic parties, happily without bloodshed. But it was a critical point in the progress of affairs. The least spark of fire would have exploded the magazine of animosity harbored on both sides. Thus, the city which had so lately been declared the permanent capital of the State, narrowly escaped being baptized in blood."

The new Governor found himself confronted by a very serious and dangerous condition of affairs. The people of Texas were impoverished; they had felt the iron heel of military rule; they had been subjected to deep humiliation by the enactment of odious state laws; the public debt had been heavily increased; life and property were insecure. The Governor had been authorized by law to suspend the writ of *habeas corpus* and to declare martial law whenever and wherever he pleased, and he had exercised this power in several instances. In the counties where martial law was declared, men had been cast into prison by officers of the militia and only released upon the payment of heavy ransoms; the courts afforded no redress, either because of incompetency or indifference, or because they had been shorn of their power. The rate of taxation had been increased from thirty cents to two dollars, and in some instances five dollars, on every hundred dollars worth of property. The State had no credit, it was heavily involved in debt, the treasury was empty, and the treasurer's warrants and other evidences of the public debt were hawked about the streets of the capital and peddled out at a ruinous discount, entailing heavy loss upon their owners.

A calm consideration of the situation was well calculated to affright any man, who possessed the capacity to fully appreciate the responsibility which rested upon

him as Governor of the State. But Governor Coke demonstrated the wisdom of the people in choosing him as the Moses who would lead them out of the wilderness of poverty and insecurity in which they were wandering. To the Fourteenth Legislature of Texas, then in session, he submitted plans for the reorganization of all the departments of the government; to provide for the security of life and property; to restore the credit of the State and place it on a sound financial basis; and to protect the frontier against the predatory incursions of Indians and Mexican marauders; and he advised the Legislature to memorialize Congress to reimburse the State for the expense incurred by the State in her defense. The Legislature gave him a hearty support, and the results fully justify the people of Texas in the high esteem in which they hold the man who saved them from the terrors of revolution and the disgrace of repudiation.

Under authority of law, Governor Coke sent Mr. Moody, of Galveston, as financial agent of the State, to negotiate in New York the bonds in which a portion of the public debts had been funded upon his recommendation. But Texas was without credit, and capital proverbially timid, failed to respond to the representations of her fiscal agent that the bonds would prove a safe and profitable investment. After a long delay, however, a few of the bonds were disposed of at eighty-five cents on the dollar in order to give them a market quotation, and subsequently all the remainder were sold at par. The successful issue of this scheme induced the legislature to provide for the funding of the entire floating indebtedness of the State, and the punctual payment of the semi-annual interest caused the bonds to reach a premium of forty per cent, while the treasury warrants and certificates readily commanded their face value. Governor Coke is justly proud of a policy which produced such

beneficial results. He found Texas in bankruptcy; he left her in affluence.

But while the Governor was grappling with the financial problems he was called upon to consider other conditions that demanded the exercise of different faculties. The lax administration of the laws, the utter disregard by petty officials of the constitutional rights of the citizens, the corrupt substitution of bribery for justice, had brought about an evil state of affairs that it required the exercise of executive firmness to alter and of remedial legislation to prevent its recurrence. Governor Coke publicly proclaimed his intention to rid the State of gangs of thieves and cut-throats which were the legitimate offspring of conditions which had existed, and he carried out his intention. He not only availed himself of such constitutional power as was vested in him, but to the Fourteenth and Fifteenth Legislatures he also recommended stringent measures which were adopted by those bodies; and when he resigned the gubernatorial office, life and property were as secure in Texas as they were in any state of the Union.

An experience of five years under the organic law of 1869, made it apparent to the leaders of thought in Texas, that the prosperity and welfare of the State demanded the adoption of a new constitution. Governor Coke was one of the first men in the State to advise the calling of a constitutional convention, and he recommended this course to the Legislature. Bancroft, in referring to the Governor's message, says:

"But there was manifested a growing discontent in regard to the constitution which had been, as it were, thrust upon the people of Texas; and when the Legislature met in January, 1875, on the occasion of its second session, Governor Coke recommended it to make provision by appropriate enactment for assembling a convention to frame a constitution for the government of Texas.

The existing constitution, he said, was by general consent admitted to be a defective instrument. Many of its provisions were incongruous and repugnant. Its restrictions were so many and descended so much into Legislative detail as to present incessant embarrassments, and while some provisions were oppressive or inconvenient, others were positively obstructive to legislation. Necessity, he added, forced it on the people of Texas, and prudence and policy prompted submission to it. But no reason existed for submitting to it any longer. The causes which a year before had rendered it imprudent to call together a constitutional convention, has ceased to exist, federal interference was no longer feared, and the popular mind was free from passion and excitement. 'For twelve months past,' he said, 'the thinking men of the State have been studying and investigating the subject to be dealt with in framing a constitution, and are now prepared to act.' "The governor's message is a lengthy document," adds the Historian, "comprising ninety-two octavo pages, and he enters fully into every subject to which he calls the attention of the Legislature. All internal matters are considered and some space is devoted to statements concerning the condition of the frontier, in connections with inroads made by Indian and Mexican border troubles. He remarked that in nine cases out of ten the Indians that devastated the frontier of Texas came from the reservations on the northern borders. Governor Coke was in favor of applying severe measures and holding the indians to a rigorous accountability. 'Lenity,' he said, 'to their murderous and thieving propensities is atrocious cruelty to the whites.' With regard to the depredations committed by Mexican marauders, he informed the Legislature that during the spring and early summer of the past year they had greatly exceeded in magnitude and atrocity, transactions of that character for a number of

years past. The complaint of the people of the districts exposed to these predatory inroads was universal. The expense to which the State was put, owing to the inadequacy of the United States military establishment, was very onerous, and the Governor recommended the Legislature to memorialize Congress setting forth the losses of life and property on the Mexican border, and asking that the obligation of the general Government to protect Texas against foreign enemies be redeemed, and that the money expended by the State in defense of her people be refunded."

In 1875, a constitutional convention gave to the people of Texas the constitution under which they are governed to-day. That instrument, while defective in some respects, presented a great many features that were vast improvements upon the constitution of 1869, and so odious had the latter become that the former was ratified by the people by a tremendous majority. Under the new constitution, ample provisions were made for educational purposes, the inherent rights of the people were protected, the writ of *habeas corpus* was put beyond the possibility of suspension in any case, the maximum rate of taxation was fixed, and the political subdivisions of the State were prohibited from recklessly incurring pecuniary obligations. The State has prospered under its administration, but it is not altogether equal to the progressive spirit of to-day, and its amendment in some particulars would doubtless inure to the benefit of the people.

A general election followed the adoption of the constitution, and the people manifested their appreciation of Governor Coke's valuable services by re-electing him by an overwhelming majority of 102,000 votes. The Fifteenth Legislature convened in April, 1876, and showed still higher honors upon the Governor, by choosing him to represent the State in the Senate of the United States. He remained in the gubernatorial office, how-

ever, until the State government had been completely rehabilitated under the new constitution. In this undertaking he was warmly and effectively supported by the Legislature, which was charged with the duty of adjusting the machinery of the State government to all of the changes made by the new constitution.

On the 4th of March, 1877, Governor Coke was sworn in as United States Senator from the State of Texas. The great and all-absorbing question of the hour was the financial condition of the country. The silver agitation had been perturbing the public mind for some time and popular excitement upon the subject was running high. The great parties had divisions in their own ranks. Some leaders of thought favored monometallism with gold as the standard; others advocated the equalization by law of the value of gold and silver and the establishment of a double standard; whilst not a few declared in favor of silver as a single standard. The vast majority of people, however, insisted that their representatives in Congress should provide by law for the remonetization, and free coinage of silver. Senator Coke took a very decided stand upon the various questions of finance that came up for discussion in the Senate, and delivered a number of speeches in favor of the remonetization and free coinage of silver, which were listened to with marked attention. Even those who differed with him, admitted that his speeches showed evidence of careful and elaborate preparation and a thorough understanding of the subject.

Senator Coke also expressed himself in opposition to certain features of the national banking system. He opposed the granting of new charters to national banks upon any other condition than that they be limited in their operations to the business of discount and deposit, and that they be deprived of the power to issue any circulating medium. He does not believe in placing in the hands of national banks, acting as a corporate unit com-

posed of many corporations invested with similar rights and privileges, the power to control or even influence the financial condition of the country and cause a repetition of the Black Friday disaster. He realizes that there is not as much danger of the happening of that event now as there was formerly, because the coinage of silver and the issue of coin certificates have shorn the banks of some of their power, but he insists that the Government alone should exercise the right to issue circulating media for the use of the people. Senator Coke favors a circulating medium based on the precious metals without distinction, convertible into gold or silver at the option of the holder, and opposes any intermeddling by the banks with the right and the duty of the Government to furnish money for the use of the people. He also objects to that peculiarity of the national banking system which prohibits the banks from placing loans upon real estate security. He regards this policy as discriminating in its character and detrimental to the interests of the agriculturalists of the country.

Mr. Coke's speeches in the Senate have covered every political and economic question of general interest. They have been universally read in Texas; and those delivered on the tariff, on silver remonetization, and on the Blair educational bill have been in great demand all over the Union. When the latter bill was originally introduced in the Senate, Mr. Coke analyzed its provisions very carefully and concluded that it was unwise, impolitic and Unconstitutional, and he was one of the first men in Congress to actively oppose its passage. Petitions and memorials had poured into both houses from all parts of the country requesting Congress to adopt the measure; the legislatures of a number of states had by resolutions requested their representatives and instructed their senators to vote for it, and in the face of the determined efforts made by its friends and the listless indifference of

its opponents, Mr. Coke entertained very little hope of its defeat. Regarding it, however, as violative of the fundamental principles of the organic law of the land, impolitic in its scope and tendency, and unwise in its application, he deemed it his duty to make war upon it. Notwithstanding his vigorous assaults and those of other senators, it received a majority of votes in the Senate but was smothered in the House Committee on Education and Labor, to which it had been respectively referred as a Senate bill and as an original proposition at the instance of its friends, who were in an overwhelming majority in the House. When the bill was before the Senate of the fifty-first Congress, Senator Coke made an able and exhaustive argument against it. The bill was defeated in the Senate, and it may be truly said that to Senator Coke's opposition is its defeat mainly attributable. When he first assailed it, the Senate passed the bill with only a few dissenting votes, but his exhaustive and elaborate exposure of its Unconstitutionality, its vicious tendencies, its unwise policy, and of the absence of a necessity for such a measure, had much to do with stirring up opposition to it, arousing senators and the country to an investigation of it, and its final defeat.

Senator Coke has been an active participant in all the debates on the leading political questions which have agitated the country since he has been in the Senate. He has usually delivered three or four elaborate speeches on great National questions during each session. He has devoted his attention particularly to the tariff and the subject of revenue reform. As is well known, he is a staunch and ardent believer in the doctrine that the Government has no Constitutional right to levy taxes, except for public purposes, and that the revenues should be limited by the actual necessities of the Government, economically administered. He is opposed to the doctrine of protection, and declares that it is criminal to

compel the consumers of the country, the vast body of the people to pay tribute for the enrichment of favored individuals. These views he has often enunciated with great force and clearness and his speeches upon the subject of the tariff rank with the most elaborate arguments delivered in the Senate during his term of service. When Senator Reagan, as chairman of the Committee on Commerce in the House of Representatives, succeeded in having the House pass the celebrated Inter-State Commerce bill, Senator Coke warmly advocated it in the Senate.

Senator Coke is now serving his third term. In the Senate, he is considered the peer of any of his colleagues as a Constitutional lawyer and his judgment upon questions involving the consideration of rights under the constitution is sought by them, and carries with it great weight. As illustrative of the opinion of his legal qualifications entertained by his Democratic colleagues, it may be mentioned that he was chosen by the Democratic senatorial caucus as one of the four Senators who represent the party in the Judiciary Committee. He is also a member of the Committee on Commerce, one of the most important committees in the Senate. As a member of this Committee, he has recently demonstrated his vigilance, his influence, and his careful consideration of the interests of his State and the Southwest, by procuring the passage by the Senate of a bill for the improvement of the bar and harbor of Galveston, and also a favorable report upon a bill to authorize private capital to improve the bar at Aransas Pass.

Senator Coke is a magnificent specimen of physical manhood. His broad high brow and massive head indicate extraordinary brain power; and, standing six feet three inches high, with well proportioned body and limbs, he attracts attention wherever he goes. Of him, it may be truly said, that he possesses *mens sana in cor-*

*pore sano.* He is a hard student and incessant toiler. He rarely goes out into society, and, when not in attendance upon the Senate or performing work of drudgery for his constituents, he may usually be found at his desk working away at some public problem with all the zeal and earnestness of a young advocate engaged in the preparation of his maiden case. He has a host of warm personal and political friends. There is no element of unfaithfulness in his nature and he possesses a faculty, uncommon among men in public life, of being true to himself and true to his friends. He has never promised to do a thing without intending to do it and without striving to accomplish it, and he has never turned his back upon an old friend to secure a new one.

The Senator is very domestic in his temperament and is very fond of young children. He longs for the quiet of his home after the hours devoted to public business. He has often been heard to say that his only objection to public life was the enforced separation from his family. His wife has not been able to withstand the rigors of the winters at Washington, and, being in delicate health, she has been compelled to remain at home. While not ranking with the men of wealth in the Senate, Senator Coke enjoys a satisfactory competency. At his home in Waco, Texas, he resides in a substantial, commodious, old-fashioned, brick house, embowered in shrubbery and flowers, where he dispenses hospitality with a lavish hand; where every guest feels himself at home; whither he longs to return and whence he regrets to depart.

In Texas, Senator Coke is very popular and is regarded by the people as the foremost man of the State, *facile princeps inter pares.* He has never been defeated for any position to which he has aspired. When District Judge, he was elected a Justice of the Supreme Court; was twice elected Governor of the State, the last time

without opposition in his party; and has been three times elected to the United States Senate, the last two elections being by the unanimous vote of both Houses of the Legislature. His fellow citizens feel that he has reflected credit upon their State, and they always testify their appreciation of his unremitting labor and his eminent services, whenever an opportunity presents itself.







Mae Perkins





## ROSCOE CONKLING.

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ROSCOE CONKLING was born at Albany, New York, on the 30th of October, 1829. He was the youngest son of Alfred Conkling, who was not only an eminent practitioner and writer in the legal profession, but also a Judge of the United States District Court for the Northern District of New York from the years 1825 to 1852.

Roscoe Conkling did not have the advantages of a collegiate education. He studied at the Auburn Academy, where his schoolmates recognized, without jealousy, his superiority both in the class-room and on the play ground. His father was a graduate of Union College, and the son would probably have studied there if he had desired a university education, but his eagerness to begin the battle of life prevented him from entering college.

At the age of sixteen, he left his father's home at Auburn, went to Utica and became a student in the well known law office of Spencer & Kernan. There were no paid clerks in this office and young Conkling was without means and much embarrassed for funds with which to support himself, but he borrowed from his brother a sum sufficient to complete his legal studies, which he repaid out of the first money he earned at the Bar.

Joshua A. Spencer was too active a lawyer to give special instruction to his students, but he did give to Roscoe Conkling many useful suggestions, which he always remembered and often referred to in after life.

Messrs. Spencer and Conkling were both members of the old Whig party and it was during his term of study

in the office of Spencer & Kernan, that young Conkling made his *debut* as a campaign speaker.

In the spring of 1850, the office of District Attorney for Oneida county became vacant by the resignation of the incumbent, and Governor Hamilton Fish appointed Roscoe Conkling to the vacancy. Mr. Conkling was not quite twenty-one years of age, but he assumed at once the duties of the office and tried causes without retaining counsel to assist him. In 1852, he returned to private practice at Utica and soon became a partner of the Honorable Thomas R. Walker. Young advocates are sometimes employed to oppose those who have been their preceptors in the law, and within three years after Conkling's admission to the Bar, he was retained to appear against Mr. Joshua A. Spencer and Francis Kernan, as well as Philo Gridley, Timothy Jenkins and other leading lawyers in central New York.

The older generation of lawyers will remember that the Bar of Oneida county has produced many eminent judges and advocates. While Mr. Conkling was District Attorney, he had opportunities for more practice in court than a young lawyer generally has, and he soon won an enviable reputation as an advocate. His natural talent for oratory, which he had cultivated in his boyhood, and his gift for repartee were of great service when in the court room. He often said in after life, that the proper sphere for him was to address twelve men in the jury box. He early acquired the habit of making his client's cause his own. He studied his cases with great care, and in the evening when many of his contemporaries were engaged in amusement, he was generally to be found preparing himself for an argument on the morrow. He was very skillful in the preparation of causes requiring technical knowledge; he made himself a chemist, a physician or a priest with a readiness that disconcerted his adversaries. He had a wonderful memory and in citing a case, often

recalling the very volume and page of the report from which he quoted.

In describing the legal career of Roscoe Conkling, it should be remembered that he is known chiefly as a public man, and that his critics have stated that the practice of law was not to his taste, and that he preferred to enter politics. These criticisms are unjust and untrue, for it was with much hesitation and against the earnest protest of his partner, that Mr. Conkling consented to run for Congress. Had he refrained from entering politics in his younger days, and adhered to his profession, he might have won a reputation as an advocate equal to that of Daniel Webster, Rufus Choate or Luther Martin.

In December, 1853, Mr. Conkling successfully defended, at the Herkimer county court house, one Hadcork, who had been indicted for forgery. Joshua A. Spencer had assisted the district attorney in the prosecution, and the young lawyer's defeat of his brilliant preceptor made him famous throughout the country.

In 1855, he formed a partnership with Montgomery H. Throop, who was a nephew of ex-Governor Enos T. Throop. This firm existed from 1855 to 1862. It cannot, in a sketch, be expected that all the cases tried by Roscoe Conkling in his early life, will be mentioned, but it should be said that when but twenty-five years of age he was well known as a jury lawyer and advocate throughout central and northern New York.

In the spring of 1858, Mr. Conkling was elected Mayor of the city of Utica, and in the following year the result of the election of his successor being a tie, he was allowed to hold over until December, 1859, when he resigned to take his seat in Congress, to which he had been elected. His duties as Mayor did not prevent him from practicing law, but his entrance into Congress substantially forced him to abandon his profession until the year 1881, excepting two years (1863-65), when he was defeated

by a slight majority for Representative in Congress. It should be said, however, that during the summer recesses, he occasionally distinguished himself by trying causes, but he was often associated with other attorneys, so that he did not always have the entire management of the case.

Mr. Conkling's first long speech in Congress was virtually a legal argument. It referred to the construction of the Constitution by the Supreme Court of the United States, in the famous Dred Scott decision. He attacked the doctrine set forth and urged Congress to disregard it. In the ensuing Presidential canvass of 1860, this speech was circulated as a campaign document by the Republican Executive Congressional Committee.

During his term in Congress, the most famous case in which Mr. Conkling was engaged was the trial of the Reverend Henry Budge for murder, wherein he successfully defended the accused. Here Mr. Conkling made himself a physician *pro tem*; and it was his wonderful power of using technical knowledge, then hastily acquired, that enabled him to save his client. He procured a corpse for dissection and spent several days with Dr. Alonzo Clark, a well known physician. Referring to the assimilating power of his mind, Dr. Clark afterward remarked that Mr. Conkling had learned in a few days what he had learned in thirty years professional practice. The Budge murder case created great excitement in religious circles in central New York, and the feeling was so strong that it was carried even into politics.

Mr. Conkling's next important case of public interest, was the theological suit of Sawyer vs. Van Wyck. He was retained by the defendant, who was the publisher of the *Christian Intelligencer*. The plaintiff fancied he had been injured by a severe review of his book on "Biblical Science," wherein he had freely translated and commented upon the scriptures. At the trial Mr. Conkling

showed great familiarity with the Bible, and succeeded in bringing about a disagreement of the jury. A year later the case was tried again, and he won a verdict for the defendant.

Upon the establishment of the provost marshal department by act of Congress, certain persons engaged in the recruiting service entered into a conspiracy with "bounty-brokers" to defraud the Government. So great were the frauds in New York, that the Secretary of War, Edwin M. Stanton, wished to retain special counsel to investigate the various offices of the provost marshals and punish the guilty persons. He urged Mr. Conkling to undertake the work, but being engaged in lucrative practice and knowing the bitter feeling which would arise from a thorough and fearless investigation, Mr. Conkling declined the offer and recommended a competent counselor. Mr. Stanton, however, insisted that he must accept the appointment, and accordingly Mr. Conkling, under protest, became the representative of the United States. The principal work was the court-martial of Major Haddock, the acting assistant provost marshal general of Western New York. The trial began at Elmira in May, 1865, and, with adjournments, lasted nearly four months. The proceedings aroused much public interest. By the efforts of Mr. Conkling, Major Haddock was convicted and sentenced to pay a fine of \$10,000.

At about this time Mr. Conkling defended successfully several persons under indictment for arson in Central New York, and in 1867, was elected to the United States Senate, and thereafter, with one exception, he refused retainers in criminal cases.

The next important suit in which he appears, was that of *Smith vs. The New York Central Railroad Company*. The plaintiff, while acting as locomotive engineer, had been severely injured by a collision. He retained

Mr. Conkling, and although opposed by very able counsel, won a verdict of \$18,000, which, up to that time, was the largest sum awarded in accident cases. A motion for a new trial was at once made, but the president of the Company is reported to have said: "Pay that judgment, for if Conkling tries this case again he may make it \$50,000." Another case of great interest, in which Mr. Conkling took part, was in opposition to a motion for injunction against a Company, which was about to build a bridge over the Hudson river at Troy. It was heard by Mr. Justice Hunt in the United States Circuit Court for the Northern District of New York. Mr. Conkling made a very elaborate argument, which was, in fact, a digest of nearly all the decisions bearing on the case. The complainant represented the owners of tow-boats and canal boats, but Mr. Conkling disproved the claim of obstruction to navigation, and won his case.

Mr. Conkling was, in 1875 associated with the late George Gifford in opposition to a motion for an injunction brought by Mrs. E. S. Roberts, administratrix, against the Remington Rifle Company, on the ground of alleged infringement of her patent. Edward N. Dickerson, the well known patent lawyer, opposed Mr. Conkling. The case was heard in the United States Circuit Court for the Southern District of New York, and Mr. Conkling was successful, the motion being denied. His biographer, Mr. Alfred R. Conkling, refers to this case, and quotes the following extract from a letter of Mr. Conkling's associate counsel, in answer to a request to make, for publication, a digest of his argument:

"The whole argument is too good to be abbreviated for any purpose. I think it a remarkable instance of a man by original capacity, stepping right into a new line of controversy, mastering the subject and making as complete, comprehensive and sound an argument as if it had been his life business to argue patent causes."

During Mr. Conkling's long term of service in both Houses of Congress, his legal ability was often shown in the preparation of bills and discussing them on the floor. His colleagues in the committee rooms, state that he was quick in pointing out the defects in a legislative measure. His thorough knowledge of the law and of the Constitution enabled him carefully to weigh the remote effect of each clause in a bill.

His chairmanship of the Senate Committee on the Revision of the Laws, made him very familiar with the Federal Statutes. His intimate knowledge of the Constitution and the history of American legislation, was conspicuously shown in his famous speech on the Electoral Commission bill, which was delivered in the Senate on the 23d and 24th of January, 1877. This speech was the greatest effort of his legislative life. It contains nearly 30,000 words, but to make a digest of it would be out of place in a sketch of his legal career. Suffice it to say, that many thousand copies of it were printed in pamphlet form, and sent to those who wrote for it. He received many letters of praise from residents of all parts of the country. Among others, Bancroft, the historian, who said in his letter of acknowledgment: "Accept my thanks for your most able speech on counting the votes for President, so thorough in research, so clear in statement."

Mr. Conkling has already been presented to the reader as a patent lawyer, and his power of mastering a new subject, has been referred to. The next cause of public interest in which he appeared was concerning the Adams patent for the electro-plating of nickel. This was Mr. Conkling's *debut* in the chemical side of patent cases. He spent many hours in the laboratory of a well-known chemist, who made a series of experiments in nickel-plating. He acquired quickly technical knowledge and turned it to use in his argument. The cause was heard

by Judge Blatchford, in the United States Circuit Court for the Southern District of New York, in the Spring of 1878. He held the papers several months, then decided against the defendants, and by virtue of his decree, injunctions against several manufacturers in New York, were issued. At this juncture, Mr. Conkling was retained by one of the defendants. On a motion to vacate the injunction, he asked substantially from the Judge, a favorable reconsideration of the case he had just decided. The solicitors in the case have since said that no other member of the New York Bar could have persuaded this Judge to grant a rehearing in the case. Although opposed by the late Edward N. Dickerson, he induced Judge Blatchford to listen to a very long argument and carefully review the cause. The Judge's final decree was unfavorable to Mr. Conkling's clients, but it was not his fault. He had been called into the case too late, but he regretted that an appeal was not taken to the Supreme Court. After the Judge's second decision, the owners of the patent offered to settle with the alleged infringers on such favorable terms that it was thought wise, for pecuniary reasons, to agree to them. These terms might not have been proposed had not Mr. Conkling presented such a strong case for the defendants.

During the latter part of Mr. Conkling's public career, he had occasional causes to argue before the United States Supreme Court, and before the Commissioner of Patents. Among other interference cases, he appeared for the owners of the Sargeant and Greenleaf locks. In February, 1881, he argued the case of the Pacific Mail Steamship Company vs. the United States, in the Supreme Court of the United States. This was an appeal from the Court of Claims, after that Court and the Postmaster General had decided against the Company. Mr. Conkling was retained by the plaintiff to argue the case in the Supreme Court. This suit involved nearly a mil-

lion dollars, which was claimed by the Company for carrying the mails from San Francisco to Japan, under contract with the Government. The point at issue was that the mails had not been transported in the class of vessels according to the terms of the contract and the act of Congress; that is that they should be such steamers that could be converted into men-of-war, for our navy. Mr. Conkling made a thorough analysis of the acts of Congress and of the contracts of the Postmaster General with the Company, and proved conclusively, that the steamships provided by the Company were in accordance with the law and the contracts. The Court gave unanimous opinion reversing the judgment of the Court of Claims, and allowed the plaintiff all that it had claimed, excepting the cost of one trip, which had been made in a substantial vessel, but not of the proper class. This victory of Mr. Conkling's was regarded as a remarkable example of legal ability and skill.

In May, 1881, Mr. Conkling resigned from the Senate of the United States, and thus closed his public career, which had extended through thirty years. He spent the summer at his pleasant home in Utica, where he recovered, partially, his shattered health. Late in the autumn he resumed, under very discouraging circumstances, the practice of law in New York City. With poor health and financial embarrassments it might be long before he could establish himself at the Bar of the metropolis, which numbered fully fifty thousand members, many of whom had long been unable to make a living. Moreover his motives for resigning from the Senate were misunderstood, and this raised much feeling against him. But with all his physical and pecuniary troubles, and with a cruel public to criticise him harshly, he soon elevated himself to a place in the front rank of the lawyers in the state and the Nation. That he thus overcame all

obstacles and succeeded, should be regarded as the greatest achievement in his career.

Among his first clients were Jay Gould and Thomas A. Edison. The latter retained him for patent causes, and that he was perfectly at home with the technicalities of the patent law, has already been shown. He at once sought counsel business, rarely appearing as an attorney of record. Some eminent lawyers offered to take him into partnership, but he declined their proposals. At the outset, the condition of his health prevented him from doing much labor, and he refused to enter several important cases on account of being physically unable to attend to them, for he would not accept a retainer unless he could perform the necessary services.

In about a year he recovered his health and occupied larger offices, to which he removed his law library from Utica. Up to this time he had used the law books of an old friend in an adjoining office. He engaged lodgings in west Twenty-ninth street, next door to the building of the New York City Bar Association, in the library of which he spent many of his evenings preparing his cases.

He did not become a specialist, although his most important suits referred to railroads. He had an extensive practice in the courts of equity. When he appeared in the court room it was generally crowded with lawyers and laymen, and his presence there was usually recorded in the papers of the day, and he received more public attention than any other member of the New York Bar.

On the 8th of November, 1873, President Grant, in a cordial and pressing letter, offered him the Chief Justiceship of the Supreme Court of the United States. This he declined at once, but on the 18th of the following January, 1874, he was informed that the offer would be renewed if he would accept it. He again declined. President Grant also tendered him the mission to Eng-

land, but he courteously refused it. President Arthur nominated him for an Associate Justice of the Supreme Court, and the Senate immediately confirmed him, but he again declined the great honor. In fact, since his resignation from the Senate in 1881, Mr. Conkling made no effort to re-enter public life, either legislative or judicial.

Mr. Conkling, now that he had recovered his wonted health and vigor, soon acquired a large practice in the Federal and State Courts. He was the American counsel for the Apollinaris Water Company of London, and one of the counsel in the Glucose Sugar litigation. He also defended the New York *World* in some libel suits, and he appeared for the contestant in the famous Jesse Hoyt Will Case, in New York City. He was offered retainers by parties in many of the western states, but he did not always accept them, unless to argue appeals before the United States Supreme Court at Washington. He did much business for the railway companies in which Messrs. Collis P. Huntington and Jay Gould were interested, and in December, 1882, he argued the famous California Railroad case before the Supreme Court of the United States, in which he raised the novel point of law, that the Fourteenth Amendment to the Constitution could be applied to the protection of corporations as to taxation, corporations being persons in the law. The Court decided unanimously in his favor. Another very important case in which Mr. Conkling appeared, was that of Marie et al. against Garrison, in the Superior Court of the City of New York. This suit involved \$5,000,000, and grew out of the foreclosure of a mortgage on the Missouri Pacific Railway. The case had been pending about seven years, and was finally won by Mr. Conkling.

From a brief memorial of Roscoe Conkling, delivered by Judge William D. Shipman, at the request of the

Bar Association of the City of New York, the following extracts are taken :

"I need not tell the members of this association that the career of Mr. Conkling at this Bar, and in the courts of other states, after his return from public life, was one of the most remarkable events in the annals of our profession. He commenced here alone. He was, of course, at once brought into competition with a numerous Bar, many of whom were near his age, and who had been drilled by the uninterrupted practice of their profession, in which they had risen to distinction during the years in which Mr. Conkling had devoted his energies to public affairs. But his success was assured from the start. He was employed in a great many important causes. His clients ranked him, and rated the value of his services very high. It is safe to say, I think, that during these last seven years of his practice, he received a larger professional income than was ever paid, in the same length of time, to any other lawyer of this country. Something, doubtless, is to be credited to personal admiration and personal devotion, but, in the main, his unprecedented success was due to the fact that he was deemed by those having great interests at stake to be as great a power at the Bar as he had been in public life.

"In nearly all of the numerous articles in the press evoked by his death, he was recognized as one of the great figures which have appeared on our political stage. Nor was he unknown or unnoticed abroad. Even the Continental press, as far remote as Austria, treated his death as an important event. Not only the cultivated, but the common people in Europe, read his obituary in foreign tongues with interest, and thus became, to some extent, familiar with his character. Not many weeks after his death, a poor Austrian woman, who had but once seen him, wrote a friend of his, in this country, a letter, in broken English, speaking of his fame and deploring his

death. It goes without saying, that among all *English* speaking people he was known as one of our most distinguished public men.

"The spirit with which the announcement of his illness and death was received by the American people should be noticed in this connection. He was a private citizen, daily toiling in an exacting profession. Yet from the moment that he was stricken down till the earth received his remains, a constant stream of letters and telegrams of inquiry and condolence was poured in on his friends. Messages of grief and sympathy from individuals, and formal expressions of respect and regret of organized bodies, came in great numbers from every part of the country, near and remote. During his illness, those who left his lodgings were besieged in the streets for information as to his condition, not only by those who had associated with him in public or social life, but by the obscure and humble who had never seen him, the latter often exhibiting emotions of personal anxiety and grief. It is impossible to doubt that a man whose danger and death could produce such a sensation, had many of those great qualities which strike deep into the popular heart.

"His rare intellectual gifts, his imposing figure, his stately air and manner, were familiar to us all. Yet it is not easy to describe him. He was *sui generis* beyond any personage that I have ever well known. He was what we may call, for lack of a better term, a unique and formidable personality. He had great but irregular powers; exhibited many incongruities, and was by no means destitute of weaknesses. But nearly all of the elaborate public notices of him following his death, even those least friendly, assumed or conceded the strength and opulence of his nature. If, as has been said, he was something of a meteor, he had a solid nucleus from which his luminous train emanated. A cool critic might say that

he lacked discipline and self-control. But he belonged to a class of rugged, high mettled natures, that are not easily amenable to discipline and self-control, in the tame and ordinary sense of these terms; yet, considering his volcanic nature and conceded power, together with the conflicts he passed through, and the manner in which he bore himself in defeat as well as triumph, he probably exercised more self-control than many whose spirits are less imperious and refractory. Still it should not be left unsaid that with a sterner and more rigorous self-command, he would have wielded his great powers with more complete and uniform effect. Of this, strange as it may seem to those who saw but one side of his nature, he was often conscious, and, at such moments, if he had been called upon to warn a younger but equally restive and daring spirit, he would have adopted the language of the great Scotch poet—

‘ \* \* \* whether thy soul  
Soars fancy’s flights, beyond the pole,  
Or darkling grubs this earthly hole  
In low pursuit,  
Know, prudent, cautious self-control  
Is wisdom’s root.’

“As it was, he continued to the last more or less subject to impulse; I may say, subject to great impulses. His acts and utterances; his merits and demerits, were not the fruits of pre-arranged design, studied contrivance, or cold, deliberate purpose, but the spontaneous burst of the forces which had their springs in the depth of his fervid nature.

“It is universally conceded that he was one of those who are born to be leaders of men. He had a host of enthusiastic and devoted adherents, who followed him through storm and sunshine, not as reluctant slaves, but with cheerful alacrity, marking time, if not always keeping step, with his stately tread. His positive and im-

perious nature neither prevented him from forming warm and enduring friendships, nor from engendering bitter animosities. His public life was passed during a period of great demoralization and great temptations. He wielded immense influence, and, as has been well said, he had the tastes of a prince, and the fortune of a peasant; yet he left public office not only poor, but in debt. During all his public career he had enemies, whom he treated with habitual defiance, and who would not have hesitated to strike at any vulnerable place in his armor; but neither his personal, official nor professional integrity was ever questioned.

"One of the most distinguished Justices of our highest National tribunal, before whom Mr. Conkling argued important causes, has recorded his opinion of his great abilities as a lawyer.

"At the time of his death, April 18, 1888, he was, the most striking figure at the Bar, and, it is, perhaps, not too much to repeat what was said of him at the moment of his dissolution, by one who had known him during the whole of his life: 'A great intelligence has passed away.'"

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Alfred R. Conkling, nephew of Roscoe Conkling, was born in the City of New York, on the 28th of September, 1850. He attended the schools of his native place, then entered Yale College, from which venerable institution he was graduated in 1870, at the early age of twenty.

After spending a year at Cambridge University, attending a course of lectures on physical science, he went abroad, and studied geology and mineralogy at the University of Berlin. Completing the course, he took a gen-

eral tour through Europe and the East, which occupied two years.

In 1875, he was appointed United States Geologist, by Lieutenant G. M. Wheeler, of the United States Engineers, in which capacity he served three years, at the expiration of which time he entered the Law School of Columbia College, in New York City, from which he was graduated in 1879. During his term at that celebrated college he was also a student in the office of the well known firm of Benedict, Taft & Benedict.

He was admitted to the Bar the same year of graduation, and in the Autumn he became the attorney in the office of the Hon. Edwin W. Stoughton, who had just resumed the practice of law after serving as the American Minister to Russia.

In 1881, Mr. Conkling was appointed Assistant United States Attorney for the Southern District of New York. While he occupied that responsible position he had charge of all law and equity cases, excepting those pertaining to the Customs. He was zealous in enforcing the laws for the protection of American seamen, rendering great service to that sometimes unfortunate class of our people. Mr. Conkling resumed private practice in 1883, and has given special attention to patent and admiralty causes. He devotes his leisure hours to literature, and is also active in politics, advocating the principles of the Republican party, and is an effective campaign speaker.

He is well known to the country as the biographer of Roscoe Conkling, having given his "Life and Letters" to the public a short time subsequent to his uncle's death. The work is a credit to the literary attainment of Mr. Conkling, and has been well received by the public.





*Thomas M. Cooley.*





## THOMAS McINTYRE COOLEY.

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BY HENRY WADE ROGERS, LL. D.

THOMAS McINTYRE COOLEY, the foremost authority on American Constitutional Law, an eminent judge and publicist, was born on the 6th of January, 1824, in Attica, New York. His father, Thomas Cooley, had been a Massachusetts farmer, and had emigrated from that State to western New York, then the "Far West," twenty years before.

It is a curious coincidence, that John Marshall, the great Judge, whose name will be forever associated with the Constitutional Law of the United States, was one of a family of fifteen children, and that Thomas M. Cooley, the great commentator of our system of Constitutional Law, was likewise one of a similar number of children. The father Thomas Cooley, was poor, his fifteen children all lived to mature years, and they were early cast upon their own resources. If there be any wisdom in Lord Mansfield's remark: "That the best thing he knew to make a great lawyer, was great poverty," then was Thomas McIntyre Cooley fortunate in the conditions which attended his birth and early manhood; for he was born into poverty and destined to contend with adversity. The story of his early life, as he once told the writer, was: "Really too hard to make it pleasant to dwell upon". He struggled with poverty from the first, acquiring the means for attaining his education only by hard manual labor, which extended through the period of professional study. Such education as he obtained, he acquired in the

common schools until the age of fourteen, then for four terms he attended private schools taught by classical scholars. The last he attended was taught by Lewis Parsons, a very worthy gentleman, who, after the Civil War, was Provisional Governor of Alabama.

In 1840-1-2, Mr. Cooley taught school himself for three or four months in each year, and undoubtedly derived as much benefit from the schools he taught as from any that he attended. We may say of him, as Story said of Marshall: "That his attainments in learning have been nourished for the most part by the solitary vigils of his own genius."

Nature evidently intended him for the law, and gave to him a legal mind and judicial temperament. He seems to have appreciated the fact that he was best fitted for that profession, all his tastes being in that direction. Before he was nineteen years of age he had commenced the study of law at Palmyra, in the State of New York, reading in the office of Theron K. Strong, who afterward became one of the Judges of the Supreme Court of the Empire State. Judge Strong was a very thorough and systematic man and the young student was quick to perceive the fact, and the study of his methods was of great service to him in many ways. Reading in law offices he had no help whatever from others, but was enabled to see how important questions arose and were disposed of. While he pursued systematic reading of the law, he was observable also, of what was going on about him, and endeavored to master such questions as the office business presented. He himself has said, that he has no doubt he worked all the harder for having no assistance from those around him.

In 1843 he removed to what was then the newly admitted State of Michigan, and took up his abode in the village of Adrian. He settled in Michigan because he lacked the means to carry him to Chicago, which was

his point of destination when he started. At Adrian he finished his preliminary study of the law in the office of Tiffany & Beaman, holding meanwhile, the position of Deputy County Clerk, and was admitted to the bar in January, 1846, at the age of twenty-two.

Having been admitted to the Bar, the next event of importance in his career, was his marriage on December 30th, 1846, to Mary Elizabeth Horton, daughter of Mr. David Horton. The newspapers have reported that this was a runaway match, but without the slightest foundation in fact. The newspaper story is that when "Tom" Cooley made his timid request to the father for the hand of his daughter in marriage, he was met with a flat refusal, accompanied by a very positive declaration that no daughter of his should ever marry, with his consent, a man who could not earn his own living. That the young lady then consented, in defiance of her parents wishes, to runaway and marry him. It was not necessary for Mr. Cooley to imitate Lord Eldon's example; if an elopement had been necessary the young couple would not have married, for they could not have raised the necessary funds. It has also been stated, with no better basis of fact, that Judge Cooley in his youthful days was a shoemaker. The match was not opposed by either Mr. or Mrs. Horton. It was in all respects a happy and fortunate marriage:

"When friendship, love and peace combine  
To stamp the marriage bond divine."

Bacon has said that, "He that hath a wife and children hath given hostages to fortune." Thomas M. Cooley had no need to give hostages to fortune, for he was ambitious and industrious by nature, but now that he was married and still in poverty, as well as in obscurity, he felt all the more keenly the necessity that was upon him to carve his way through all difficulties to an established position. As children were soon born to

him, he no doubt felt very much as Lord Erskine felt before him. Erskine had entered upon practice in very straitened circumstances, and when he arose to make his maiden speech he said it seemed to him as though his little children were plucking at his robe and saying to him: "Now, father, is the time to get bread."

Young Cooley was determined to win success, but success was slow in coming, for the first few years of his life at the bar were not easy ones, and his way was not along the primrose paths. He shifted restlessly from place to place, and is said to have done many things at once. He left Adrian for Tecumseh, a smaller town in the same county, and there formed a partnership with Mr. C. A. Tracy; but this did not satisfy him and in 1848, he returned to Adrian. Here he divided his time between the law and editing a newspaper. He became editor of the *Adrian Watchtower*, a weekly newspaper, and in his law business was successively the junior member of the firm of Beaman, Bucher & Cooley, and the senior in that of Cooley & Croswell. Charles M. Croswell, the junior member of the firm, afterward became Governor of Michigan—being twice elected to that office; and Fernando C. Beaman, the senior member of the former firm, was a member of Congress from 1861 to 1863, and was appointed by the Governor to fill the unexpired term of Zachariah Chandler, in the United States Senate, on the latter's death. In 1850, Mr. Cooley was elected Court Commissioner and Recorder of Adrian. At this time he was not only editing a newspaper, practicing law and acting Recorder for Adrian, but, as if this were not enough to occupy his attention, he became interested in farming and in conjunction with his father-in-law, David Horton, bought and cultivated a hundred acre farm near Adrian, and was made Secretary of the Lenawee County Agricultural Society.

Still restless and dissatisfied he left Michigan in

1852, and went to Ohio, where he established himself at Toledo, forming a partnership in the real estate business with J. W. Scott. That city was in the midst of a real estate "boom," caused by the recent completion of the Michigan Southern and Wabash Railways. For a time the business proved a profitable one, and Mr. Cooley showed great facility in the energetic and systematic transaction of a very lively business. But he had not wholly loosened his hold on the law, and while here accepted a nomination for the office of Circuit Judge, at the hands of some dissatisfied Republicans and Democrats. He was, however, defeated, as he no doubt expected to be. After a time the real estate business became less promising and he returned again to Adrian, this time, to devote himself to the law.

One who knew him well at that period says of him, "that he was noticeable for the unusual beauty of his head and face, his delicate physique and his feminine voice. His head, though large, was of a marked intellectual type. He talked little, but always clearly; his manner without being at all diffident was modest and gentle, yet brightly alive to everything that was going on, and alive to the funny side of things. He was recognized as a man of more than common literary culture, and even charged with being a poet. Among lawyers he was known to be ready and skillful in legal office work, but he had no characteristics that would have induced the belief that the law practice would lead him to fame or fortune. His whole make-up seemed literary rather than lawyerly." It thus appears that in one respect, at least, the young Mr. Cooley was not unlike the distinguished Commentator on English Law; for Blackstone, who always had a great passion for literature, was, in the earlier part of his career, sometimes in the habit of writing poetry. But not finding this particularly helpful to him in his study and practice of the law, he en-

tirely abandoned it in his "Farewell to the Muses." Mr. Cooley, afterward to become Blackstone's more learned Commentator, had a similar tendency in his earlier days, which later on he similarly renounced.

In 1859, when the Law Department of the University of Michigan was organized, Thomas M. Cooley was appointed Jay Professor of Law, and he continued to hold the position until 1884, when he was compelled, by the pressure of other duties to resign. During the most of this long period he also acted as Dean of the Department, which added largely to the burdens of the Professorship, by compelling him to give his personal attention to all the details of the school. During his connection with the Law School, it became one of the largest and best known of all the law schools in the United States. It has sent forth more graduates than any similar school in the country, and its students have been drawn from the "Islands of the Sea." As a lecturer upon law, Judge Cooley was distinguished for the clearness of his style, and the thousands of law students who have sat under his instruction in the University of Michigan, hold him in the highest esteem. Great inducements have been held out by other universities to secure his services, but all to no purpose. He declined an invitation to go to Baltimore and organize in the Johns Hopkins University, a Department of Jurisprudence, embracing History, Law and Political Science generally. The understanding was, if he would accept the position he should have general supervision of the Department, and take such part only in teaching as he might choose, leaving him ample time for work as an author.

On the death of John Norton Pomeroy, LL.D., Judge Cooley was invited to go to San Francisco, as his successor in the Hastings College of Law. He also declined their invitation, and when the University of Texas was organized in 1882, with a very rich endowment and

excellent prospects, he was invited to accept a Professorship in Law in that institution; this offer was also declined, as were invitations to lecture on Law received from the Boston Law School, the Law School of the University of Pennsylvania, the Cornell Law School and that of the Columbian University at Washington, D. C. Probably no man in the United States has ever received so many and such flattering invitations from the law schools of the country as have been received by Judge Cooley within the past few years. But during the years 1877-8-9, he found time to deliver a course of lectures at the Johns Hopkins University, lecturing on Torts, the first year; on the new Amendments to the Federal Constitution, the second year; and on Municipal Governments, the third year. In the Law School of the University of Michigan, his special topics were Constitutional Law, the law of Real Property; Uses and Trusts, of Wills and the Administration of Estates, and the Law of the Domestic Relations.

In 1881, when the School of Political Science was established in the University of Michigan, Judge Cooley manifested a deep interest in its welfare, and without severing his connection with the Law School, consented to accept the Chair of Constitutional and Administration Law, of which he also in a short time became Déan.

When in 1885, Charles Kendall Adams, LL.D., resigned the Chair of History, in the University of Michigan, to accept the Presidency of Cornell University, Judge Cooley's interest in the University led him to consent to fill for the time being, the position made vacant by the resignation referred to, so that from October, 1885, until his appointment as Receiver of the Wabash Railroad in December, 1886, he was delivering lectures on Constitutional and Political History in the Academic Department of the University. The University honored him in 1859, when it conferred on him at the age of

thirty-one, his appointment as Jay Professor of Law, and in 1873 it again honored itself by conferring on him, whose name had now become a tower of strength to the institution, the degree of Doctor of Laws, and at its memorable celebration in 1886, of its two hundred and fiftieth anniversary, Harvard College conferred upon him the same degree. As has been said, his connection with the University of Michigan commenced in 1859, when the Law Department of the University was established.

Two years before that, in January 1857, the State Senate had chosen him to compile the General Statutes of the State, and within a year he had completed the compilation that bears his name. In 1858, he became the Official Reporter of the Supreme Court of the State, having been appointed to the position by the Court, and which he continued to hold until 1864. During this time he had attracted the attention of the Bar of the State, by the very able manner in which he discharged the duties of the office, which proved in his case a stepping-stone to the Bench itself, for in 1864 he was elected one of the Judges for the Supreme Court of Michigan, having been nominated for this position by the Republican party. His Democratic competitor was the Honorable Alpheus Felch, who in previous years had been a Judge of the Supreme Court of the State, then Governor, and then a Senator in Congress, sitting in the Senate with Webster, Clay and Calhoun. Judge Cooley was triumphantly elected, and took his seat on the Supreme Bench, as the successor of Chancellor Manning, who had died during his term of office. His associates on the Bench, who already knew something of his high qualifications for the place, welcomed him to the position as a most worthy successor to the lamented Manning; and yet, as one of them said: "We were, and continued to be more and more surprised and gratified by the ability

he continued to exhibit as a judge, the longer he continued on the Bench."

From 1864 to October 1st, 1885, Judge Cooley was a member of the Supreme Court of Michigan, holding the office by successive elections. The term of office of members of the Court is one of eight years, and the Judges are so classified that but one of them goes out of office at the same time; the law providing that the one whose term of office first expires, by its limitation, shall be designated as Chief Justice and shall exercise the powers and duties of that office. In accordance with this provision, Judge Cooley from time to time presided over the Court as its Chief Justice. From the time Michigan was admitted as a State, in 1837, down to the year 1849, the law provided that the Judges of the Supreme Bench of the State, should be appointed by the Governor and Senate for periods of seven years, until the latter year a Constitutional Amendment was adopted which provided that from that time all judges should be elected by the people, and such has continued to be the law of the State from that day to this, a similar provision having been incorporated into the Constitution of 1850.

Whatever may be thought of the expediency of such a provision, it must be conceded that the wisdom of it could never be called in question, so long as men like Cooley, Christiancy and Campbell were elevated to the Bench, for these men, and those associated with them, have made the legal decisions of the Michigan Court admired and respected wherever American Jurisprudence is known. They elevated the Court to a position second to no one of the State Courts, causing it to rank with the highest Courts in Massachusetts and New York. James V. Campbell, a most scholarly man and accomplished lawyer, had been on the Bench since 1858 and continued there until his death in 1890. Isaac P. Christiancy, a man of remarkable ability, whose judicial career

is resplendent, went on the Bench at the same time, and continued there until elected a Senator of the United States, taking his seat as such in March, 1875, as the successor of Zachariah Chandler. Cooley, Campbell and Christiancy were all great judges and have reflected the highest honor upon the State. As a Judge, Cooley was certainly not inferior to either of the others; his intellect always penetrated "the husks of discussion to the kernel of controversy," and his opinions show that he is not only possessed of a keen and analytic mind, but that the depth of his learning in the law is great. His first opinion was pronounced in *Laing vs. McKee*, 13 Mich. 124, a case of no great importance; his last opinion was in the case of *Selleck vs. Lake Shore and Michigan Southern Railway Company*, 58 Mich. 195, which involved the question of proximate cause in a railroad injury. But during the twenty years he sat upon the Bench, it devolved on him to pronounce opinions in many cases of the first importance. Such a case is that of the *People vs. Salem*, 20 Mich. 452, in which a legislative act which authorized townships to vote aid to railways was held unconstitutional, the right to use the taxing power for such a purpose being denied. The State cannot use the taxing power to encourage private parties in the construction of railway lines, and what the State cannot do as a political community, the inferior municipalities can not do. At a time when the country is being deluged with talk about bounties to this, and bounties to that interest, it is refreshing to read this statement from the opinion in question:

"But it is not in the power of the State, in my opinion, under the name of bounty, or under any other cover or subterfuge, to furnish the capital to set private parties up in any kind of business, or to subsidize their business after they have entered upon it."

In the case of *Ryerson vs. Brown*, 35 Mich. 333, he

denies the protection of the doctrine of Eminent Domain to the flooding of lands for the use of water-power mills. It must be conceded that the contrary doctrine is recognized in many states, but the conclusion reached by Judge Cooley will commend itself to very many minds, as being the more righteous and logical doctrine. He takes the position that a taking of land for such a purpose is a taking for a private use, and as such cannot be upheld.

In the case of *The People vs. Hurlbut*, 24 Mich. 44, 92, he pronounced a powerful opinion, stating that the task he was called upon to perform, was to give reasons why a blow aimed at the foundation of our structure of liberty should be warded off. He announced that the State Constitution could not be so construed as to confer upon the Legislature the power to appoint for the municipalities, the officer who was to manage the property, interests and rights in which the people of municipalities alone were concerned. He accordingly held unconstitutional, a legislative act which appointed the members of the Board of Public Works of the City of Detroit. This was followed by the case of *Park Commissioner vs. the Common Council of Detroit*, 28 Mich. 228, in which he asserts the right of local self-government against a legislative attempt to compel a municipal appropriation for the purchase of a public park: "Whoever insists," he says, "upon the right of the State to interfere and control by compulsory legislation, the action of the local constituency, in matters exclusively of local concern, should be prepared to defend a like interference in the action of private corporations and of National persons. It is as easy to justify on principle, a law which permits the use of the community to dictate to an individual what he shall eat, what he shall drink and what he shall wear, as to show any constitutional basis for one under which the people of other parts of the State through their representatives, dictate to the

City of Detroit what fountains shall be erected at its expense for the use of its citizens, or at what cost it shall purchase, and how it shall improve and embellish a park or boulevard for the recreation and enjoyment of its citizens."

In the case of *Sutherland vs. The Governor*, 29 Mich. 320, he discusses the relation, each to the other, of the Executive, the Legislative and the Judicial Department of the Government, and considers the exemption of each from the control of the other.

In *Youngblood vs. Sexton*, 32 Mich. 406, he sustained the constitutionality of a statute taxing the liquor traffic, the Constitution of the State having prohibited the Legislature from authorizing "the grant of license for the sale of ardent spirits or other intoxicating liquors." In this case he distinguishes a tax from a license. In the course of his opinion, he says: "The idea that the State lends its countenance to any particular traffic by taxing it, seems to us to rest upon a very transparent fallacy. \* \* \* It would be a remarkable proposition, that a thing is sanctioned and countenanced by the Government when this burden, which may prove disastrous is imposed upon it, while on the other hand, it is frowned upon and condemned when the burden is withheld. It is safe to predict, that if such were the legal doctrine, any citizen would prefer to be visited with the untaxed frowns of Government, rather than those testimonials of approval which are represented by the demands of the tax-gatherer." And again: "This State has never shown any discrimination to make things morally and legally wrong, contribute to the public revenue, when justice and good morals seemed to require it. If it were to act upon this idea of refusing to derive a revenue from such sources, it ought to decline to receive fines for criminal offenses with the same emphasis that

it would refuse to collect a tax from an obnoxious business."

His judicial opinions are distinguished by vigor of thought and clearness of expression, as well as for their common sense; they show a clear comprehension of all the law and facts connected with the case. He had a very good judicial style when he first came to the Bench, and he continued improving it as long as he remained there. While it is high praise, it at the same time is not unmerited to say, that perhaps this generation has not seen his superior on the American Bench as a writer of judicial opinions. A gentleman who has been a distinguished ornament to the Bench once said to the writer, that his opinion of Judge Cooley's work as a member of the judiciary, was so high that he hardly dared say anything, lest it should be thought too enthusiastic or extravagant.

The name of Judge Cooley has frequently been mentioned in connection with an appointment to the Bench of the Supreme Court of the United States. Although the mention of his name in such a connection has been received with marked favor by both the press and the Bar, the great honor of such an appointment has not been vouchsafed to him. But it must be a matter of great gratification to him, as it certainly is to all his friends, that the suggestion should have been made, and as often so well received. When it was understood that Justice Swayne was about to resign his seat on that Bench the *Central Law Journal*, of Saint Louis, the leading journal of the kind in the West, said:

"Among those most prominently mentioned as worthy candidates for the place, are ex-Senator Stanley Matthews, of Ohio, and Mr. Chief Justice Cooley, of the Michigan Supreme Court. No one will deny the well earned reputation for ability and learning of Mr. Matthews, and were his competitor other than he is, his ap-

pointment would not be one to cavil at. But Mr. Cooley's qualifications for this position are so transcendent that we think there ought to be no hesitation as to a choice between the two men. A man of a naturally judicial temperament, he has had the incalculable advantage of a long judicial experience upon the Supreme Bench of his own State, where, by the excellence of his opinions, he has earned for himself a national reputation for deep learning, great discernment and untiring industry. This has been supplemented by his works on 'Torts,' 'Constitutional Limitations' and 'Taxation,' which are unquestionably the ablest text books extant on those subjects. We do not believe it possible for any man whose life has been spent in the halls of legislation, or in the contests of advocacy, to come to a seat upon the Supreme Bench as well equipped as Mr. Cooley. We believe we do not go too far in saying, that his selection would be satisfactory to the entire country, and peculiarly gratifying to the Bench and Bar of the Northwest."

The Albany *Law Journal*, referring to the suggestion of his name as the successor of Justice Swayne, said: "This is an eminently fit nomination. It may be doubted whether any other could be suggested that would find so large and so unhesitating a concurrence among the lawyers of this country. Judge Cooley has an enviable and deserved reputation as a constitutional lawyer. His experience as a judge has been long and varied. The Court of which he is a member is one of the best in the country. His work on Constitutional Limitations is of unique excellence. Such talents, and such studies as his are the most appropriate for the Supreme Bench. The coming vacancies should be supplied by such men as himself and Judge Dillon, rather than by obscure men, promoted for political or personal reasons."

Judge Cooley did not begin his career as a legal author until he had been for some years on the Bench. To

him may properly be assigned the honor of having written the most important legal treatise which has been produced in this country. Neither Chancellor Kent, Story, Greenleaf nor any subsequent writers, have produced a work superior to the *Constitutional Limitations*. Writing of this book, Judge Seymour D. Thompson, of St. Louis, says: "If I were called upon to name the most important American legal treatise which has been written, I suppose I should say, 'Kent's Commentaries;' if I were put on oath, I am afraid I should have to say, 'Cooley's *Constitutional Limitations*.' I believe that it has done more to educate the legal profession in this country in a knowledge of the principles of the Government under which we live, than all other works used by them."

The treatise on the "*Constitutional Limitations upon Legislative Power*," was his first original contribution to legal science, and was published in 1868. Since that time it has gone through five editions. It was followed in 1872 by "*Cooley's Blackstone's Commentaries*," which has run through three editions, and is the one more generally used at the present time. In 1874, he edited an edition of "*Story's Commentaries on the Constitution*," and in 1877, he published a treatise on "*Taxation*," which is now in its second edition. In 1879, he wrote his work on "*Torts*," and in 1880, he prepared a "*Manual of Constitutional Law*." These works have established an international reputation for their author, and they are cited both in the Halls of Westminster, and on the frontiers of America. He is especially regarded as well in England as in the United States, as the greatest living author on the Constitutional Law of this country. Professor Bryce, a member of the British Parliament, recognizing the authority of Judge Cooley on all questions pertaining to the Constitutional Law of this country, sent to him from London, manuscript chapters of his

work on the American Commonwealth, inviting his criticism of the same. Professor Bryce, acknowledging the assistance which he derived from Judge Cooley's critical judgment, wrote: "I have again to thank him more heartily for his criticisms on further chapters of my book, which I have just found on my return to England from the Alps. They are of the utmost value to me, not merely as correcting points in this, which either my thought or my expression has erred, but also suggesting points of view which I had not duly understood."

Judge Cooley has for years been a frequent contributor to the legal periodicals of the country, and for a number of years, had at least a nominal connection with the American *Law Register*, upon the cover of which his name appeared as one of the editors; and as associate editor of Appleton's Encyclopedia, he wrote the law articles for the last edition of that work. Mention may be made of the following articles as among the more important of those contributed by him to the legal periodicals: The cases in which the Master is Liable for Injuries to his Servant—*Southern Law Review*, 1876; Principles that Should Govern in the Framing of Tax Laws—*Southern Law Review*, 1878; Codification—*American Law Review*, 1886.

Judge Cooley has always been a modest man, and he entered on legal authorship with characteristic modesty and diffidence. His friend Judge Christiancy, writing me in reference to it, says: "Before he had published any of his own original works upon the laws, he felt diffident about making the experiment, and before I had ever heard an intimation that he had any thought of entering that field, he called at my room one evening, when holding Court at Detroit, and said, he would like to talk with me and get my views upon an experiment he thought of making. He then explained that he had commenced writing a work on Constitutional Law, which

he had some thoughts of publishing, and would like my opinion upon the propriety of the attempt, and for that reason he had brought with him the manuscript, as far as complete, about the first third part of the work, I think. He read to me several chapters of the work and explained the plan of what was to follow. I was at once struck with the ability displayed, and the clearness of his expositions, and strongly advised him to complete and publish the work, telling him that I thought it would practically supersede all the works we then had upon that subject. Whether my opinion had any influence upon him, I do not know, but he published it, and the result showed I was not mistaken. It is a book more frequently cited upon Constitutional questions, not only in Courts, but in Congress and State Legislatures, than any other. And in this connection, I may be excused for the following anecdote. In 1878, while sitting in the room of the Judiciary Committee of the Senate; but before we went into formal session, though the members were present, Judge David Davis, also a member of the Committee, in some way incidentally mentioned Judge Cooley, and spoke in very high terms of his works, especially his work on Constitutional Limitations, which he greatly admired, and told us when that work first came out, Judge Curtis got hold of it and read it with enthusiasm, saying when he got through, it was the best law book published in this country for a quarter of a century.

“After the reception this work met from the profession, I think Judge Cooley felt no more timidity in publishing any of his other legal works, all of which are valuable.”

I may add that the praise of Judge Curtis was indeed the praise of Sir Hubert, for Benjamin R. Curtis is the man whom Mr. Justice Miller pronounced to be “the first lawyer of America, of the past or the present

time." And in this connection, the following anecdote, told on the authority of ex-Postmaster General Dickinson, may prove of interest: "When Mr. Justice Lamar was Secretary of the Interior, he had occasion to consult a work on Constitutional Law, and took down what he thought was 'Story's Treatise.' Now," said he to Mr. Dickinson, "I always detested Story's writings for their involved and cumbrous style, but in this case I found myself reading page after page, charmed by the clearness of expression, and as I read I prayed to be forgiven for the injustice I had been doing Story; but as I closed the book I noticed that it was 'Cooley's Constitutional Limitations.'"

Judge Cooley's literary work has not been confined to the writing of law books and law articles. In 1885, he contributed a history of Michigan to the popular series of volumes on "American Commonwealths." In this work no attempt was made to give the annals of the State as a substitute for other histories, and indeed the author expressly disclaimed any such purpose. He has rather sketched the history of Michigan as a history of Government, giving an account of its relations to the several governments under which it has passed. The interest of the volume is in the account which it gives of the constitutional development of Michigan under the French, English, Territorial and State Governments to which it has been subject. On the appearance of this work a Boston reviewer spoke of it as "the masterly work for which the people of Michigan, the students of our National history, and the friends of good literature, will be profoundly grateful." Chief Justice Cooley never wrote a more fascinating and popular book than "Michigan, A History of Government." He has also been a frequent contributor to all the leading periodicals of the country.

An article on the Guarantee of Order and Re-

publican Government in the States, was written at a time when the country was aroused over the intestine quarrels in Louisiana and Arkansas, and the interference of the National Government in the same. It was a severe and merited rebuke to the administration at Washington, for its interference in state affairs in violation of all Constitutional principles, as well as to certain judges who had scandalized the judiciary and the public by a proceeding which he denominated a reproach to American institutions. An article on Presidential Inability, was contributed at a time when the conditions of the dying Garfield had set the people thinking as to what constituted a disability in the Presidential office, which would justify the Vice-President in assuming the duties of the Presidency. Upon an invitation of the editor of the *Review*, Judge Cooley discussed the question with Lyman Trumbull, Benjamin F. Butler and Professor Theodore W. Dwight. The article closes with the following expression of opinion: "We conclude, therefore, that an inability in the Constitutional sense, is one that not only exists presently, but in the opinion of Congress, and of such a nature and probable continuance, that it causes or threatens inconvenience in public affairs. It is possible for a case to arise so plain, and so unmistakably determined in the public judgment, that public opinion, with unanimous concurrence, would summon the Vice-President to act. But though these would make him acting President *de facto*, he would become acting President *de jure*, only after solemn recognition in some form by Congress."

In 1885, the editor of the *Century* invited Judge Cooley, in conjunction with Senator Edmunds, Francis Wharton and one or two others, to express his views in that publication, on the question of what should be done with our ex-Presidents? Judge Cooley's answer to the question appeared in the December number of the *Centu-*

ry for that year. In it, he opposes the suggestion that the ex-Presidents should be made life Senators with a large salary. The answer to the question, he says, is this: "Allow them gracefully and with dignity, if they will, to enjoy the proud position of 'First Citizen of the Republic.' Their lives in retirement, if they be such as belong to an illustrious career, will be a continuous and priceless benefaction. If they bore themselves worthily in office, party asperities will begin immediately to wear off; their virtues will be exalted in public estimation, and their homes will become the pilgrim shrines of patriotism. If they have been incompetent, or otherwise unworthy, the shortest dismissal to oblivion is the best for them, and best for the country."

The article on the Methods of Electing the President, was prepared in conjunction with one written by Hon. Abram S. Hewitt, of New York, and published in the same connection. Judge Cooley's article discusses seven different modes, which have been suggested as proper to be pursued in the election of a President of the United States, and points out their respective merits and demerits. He appears as a sincere advocate of Civil Service Reform, believing that the offices should be taken out of politics, thereby reducing to a minimum the dangers that threaten the country from a change in the Executive office.

An article on Limits to State Control of Private Business, is one of the ablest of his contributions to periodical literature, the purpose of the article being to inquire whether, in the regulation of property rights, and business relations, recent legislation had not been occupying doubtful and unconstitutional grounds. We wish that every citizen of the Republic might read, mark and inwardly digest what is said in the article on the Abnegation of Self Government. The Government is not self-government whatever may be the theory, or the pro-

visions of the Constitution, when the public duties of the citizen are ignored or invaded.

Frequent calls have been made on him by different sections of the country for public addresses, to many of which he has favorably responded. When one thinks of the nature of the duties which he has been called upon to discharge, and of their importance, seemingly allowing no time for leisure, one may not well understand how it is he finds time in which to prepare public addresses, and articles for the magazines, but according to Tolstoi: "It is only those who have nothing to do, who have no time to do it in. Busy people always have time for anything."

In 1881, he read a paper before the American Bar Association at Saratoga, on the Recording Laws of the United States. In 1885, he delivered an address before the Tennessee Bar Association, on the Duty of the Legal Profession to make Laws Accomplish Justice. In 1886, he delivered the annual address before the State Bar Association of South Carolina, on the subject of the Influence of Habits of Thought on Institutions. It was received with marked favor and seems to have produced a great impression. One of the leading papers of that State, the *Columbia Register*, spoke of it, as a "grand and patriotic appeal to the common sense and thoughtful patriotism of a free and enlightened people." The year before Judge Dillon, of New York, had delivered the address before the Association, and the *Register*, referring to their two addresses, said: "South Carolina owes the Bar Association far more than we can here express, for introducing to our people such men as Dillon and Cooley. It serves to strengthen the attachment of enlightened Southerners, of all shades of opinion, for their common country, to meet face to face with such great and good men from the North. It awakens in the minds of all, a confidence in, and respect for the great North, who sends

out from her bosom, such men to speak to the people of the far South, and carry back with them, the greetings and affectionate interest of all good men and women of the South land."

Professor Bryce, of England, in referring to this address, said, "that it seemed to him the most weighty piece of counsel for the American people, he had seen of late years anywhere."

In 1887, he delivered the annual address before the Georgia Bar Association, at Atlanta, talking on the subject of the Uncertainty of the Law. Having pointed out the fact that all nations have their proverbs concerning the uncertainty of the law, a number of which he cited, he proceeded to announce his purpose as follows: "I shall endeavor to show by this paper, that there is no substantial foundation whatever for these reproaches, their jibes and jeers. It is not true in any sense, that the law is uncertain. It is, in fact, so far from being true, that, on the contrary, the law will be found on investigation to have more of the elements of certainty about it, than anything else, even in physical nature, or in the realm of mind, or of morals, that concern to the same extent the every-day life of mankind." He calls attention to the fact, that, while the lawyer still quotes Littleton's *Tenures* and Coke's *Institutes* as authority, yet there is not a contemporaneous book on the natural history of plants, or of animals, or on physics, that has so well stood the test of time, or that is now regarded with the same respect, or is appealed to as a guide with like confidence.

In January, 1889, he delivered the annual address before the New York State Bar Association, at the city of Albany. His subject was the Comparative Merits of Written and Proscriptive Constitution. In this address he indicated the requisites of a good Constitution, and instituted a comparison between written and unwritten Constitutions.

In 1887, before the Indiana Historical Society, he delivered an address on the Acquisition of Louisiana, while in 1886 he delivered the historical address at the Semi-Centennial of the State of Michigan. In 1882, he delivered an address before the Michigan State Convention of Surveyors and Engineers, on the Judicial Functions of Surveyors.

Having won distinction as a University Professor, as a Judge on the Bench, as a writer of legal works and a publicist, Judge Cooley was next to become an acknowledged authority on questions which have embarrassed the railways of the country, and interested and perplexed the people as well as the statesmen of the United States.

In January, 1882, the trunk line railways of the United States, that is to say, the Baltimore and Ohio, the Pennsylvania, the Erie and the New York Central Railroad Companies, selected Allen G. Thurman, of Ohio, E. B. Washburn, of Illinois, and Judge Cooley, as an Advisory Commission to investigate the intricate and complicated question of differential rates, and advise them in relation to the same. None of these gentlemen had any previous connection with railway matters. Mr. Thurman had been a Judge of the Supreme Court of Ohio, and a Senator in Congress. Mr. Washburn had been a member of Congress and Minister to France. Judge Cooley had been devoted to the profession. They were selected because their ability, position and character, gave assurance that they would carefully investigate and wisely advise, and it was thought that the country would accept their conclusions as the honest judgment of able and impartial men. It appears that the Companies mentioned, had been accustomed to make higher charges for the transportation of freight between New York and Boston as eastern *termini*, and the leading towns of the interior, than between Philadelphia and Baltimore, towns similarly situated. This occasioned bitter com-

plaint, and the question was referred to the Commission by the railroads in question, to advise whether it was right or proper to make any such discrimination in charges, for the transportation of property between the Atlantic cities, and the cities of the Interior, and if so, to what extent the discrimination could properly be made. It will be seen, that, while the submission of the question came from the trunk lines, yet the railroads were not the most directly concerned. The citizens of New York, Boston, Philadelphia and Baltimore, and especially those engaged in the exchange of commodities with the interior and with foreign countries, were deeply interested in the matter, for to some extent, their prosperity was involved in the relative adjustment of rates. The Commission therefore visited the cities named as well as St. Louis, Louisville and Toledo, and in each of these places, public sittings were held, when representatives from the Chambers of Commerce, Boards of Trade, and other commercial bodies were heard upon the matter in question. In the following July the Commission submitted an elaborate report, which is said to have been written by Judge Cooley, and the work of the Commission was done in what was to him the busiest portion of the year.

In December, 1886, Judge Gresham, in the United States Circuit Court, appointed Judge Cooley Receiver of the Wabash Railway, or so much of the property of that road as was east of the Mississippi river. The property had been for sometime in the hands of receivers, but for some reason, had not been satisfactory. The old receivers were removed, and Judge Cooley was appointed in their place. In announcing to counsel the change, Judge Gresham said: "I have had several names presented to me, but cannot appoint any of those whose names have been suggested. I shall name one to have charge, so far as this Court is concerned, who can-

not fail to be received by all with satisfaction, Judge Cooley, of Michigan." The appointment was made without first ascertaining whether the appointee would accept. In his letter tendering the appointment, Judge Gresham wrote that Judge Cooley should be absolutely free to select his own subordinates, and that his compensation should be upon the basis of his responsibility and the value of his time. He adds: "The manner in which the announcement of your appointment was received, must be very gratifying to you." Judge Gresham was right when he said that the appointment could not fail to be received by all with satisfaction. The public accepted the appointment as a guarantee, that the road was to be managed in the interest of the stockholders and of the public, and that it was not to be used in the interest of railroad wreckers, and stock speculators. Judge Cooley accepted the appointment and continued in the office until his selection as one of the Interstate Commerce Commissioners, compelled him to relinquish it in March, 1887.

The necessity for taking affirmative action by the National Government, in the regulation of the railways of the country had been for sometime a recognized fact, but the problem presented was of so complex a nature, that Congress was unable to agree on any measure until early in 1887, when at length, "An Act to Regulate Commerce" passed both branches of Congress, and on February 4, 1887, received the approval of the President. Very soon after the law was passed, it became rumored that Judge Cooley would be appointed one of the Commissioners, the rumor called forth from Senator Thurman, who served with Judge Cooley on the Advisory Commission on "Differential Rates by Railroads," a letter urging his acceptance of the appointment, in case it should be tendered to him. Senator Thurman wrote: "The newspapers say that the President

wants to appoint you. I sincerely hope that this is true, and that if he tenders you the appointment you will accept it, for without flattery, I say that in my judgment, there is no man in the United States so well qualified to be on the Commission as you are."

On March 22, 1887, the President made public his appointment of the Commission, naming Thomas M. Cooley to serve for the long term, one of six years; associated with him were William R. Morrison, of Illinois; August Schoonmaker, of New York; A. F. Walker, of Vermont, and Walter F. Bragg, of Alabama.

Judge Cooley had come to be known as a recognized authority on railroad matters, and the President, intent solely on the public welfare, named him for the first place on the Commission, and the longest term. For while it was understood that the President had given Judge Cooley the option of a long or short term, the latter declined to assume the responsibility of determining the length of his term, leaving the matter entirely in the President's hands. The fitness of his appointment was universally and immediately recognized.

*Harper's Weekly* declared that the President had, "succeeded in selecting a Board which for personal character, special experience, and trained ability for the work, it would be difficult to surpass;" and it farther said: "Judge Cooley, of Michigan, is a gentleman whose name carries the greatest weight, as that of a wise and admirable officer."

The New York *Herald*, in an editorial congratulating the President on his choice, said: "Judge Thomas M. Cooley, of Michigan, will be the head of the Commission, being appointed for the long term, six years. The President was fortunate to secure to the country the services of so able a Jurist, and so great and acknowledged an authority on Corporation Law."

The New York *Independent* declared the President

had shown, "An acute wisdom," in his choice of Commissioners, and expressed itself as "grateful" to the Commission for accepting the position. "The success of the President in his selection of Interstate Commissioners," it says, "has been frankly acknowledged on all sides," and it pronounces Judge Cooley to be, "one of the most eminent Jurists of the country."

The *Evening Post*, of New York, said: "The manner in which the Interstate Commission has been filled has, however, apparently caused the President's opponents greater embarrassment than anything which has gone before. \* \* \* All over the country his enemies in fact, admit that he has behaved abominably well."

Milton, in his lofty lines, declares:

"Fame is the spur that the clear spirit doth raise,  
(That last infirmity of noble mind)  
To scorn delights and live laborious days."

And Charles Abbott, the son of a barber, whom Lord Campbell speaks of as "the scrubby little boy who ran after his father carrying for him a pewter basin, a case of razors and a hair powder bag, through the streets of Canterbury," and who afterward became Lord Chief Justice of England, affords an excellent illustration of Milton's lines. When Abbott came to choose his armorial bearings, the motto, which he inscribed upon his shield was simply, *Labore*. If the practice of our country required Judge Cooley to have a coat-of-arms, or to place his insignia of honor on his shield, I cannot imagine his choosing any other motto than that of Tenterden's, for the spur of a praiseworthy ambition has led him in life, to "live laborious days."

Judge Cooley's passion for work has been simply extraordinary, and the untiring devotion with which he has steadily applied himself, has filled his friends with an astonishment that more than once has led them to re-

monstrate, lest he should by his ceaseless application wear himself out long before his time, but they have always been met with the remark that no man was ever killed by work alone. And so, he has worked on, year in and year out, from early morn until late at night, apparently feeling no need of a vacation, and taking none. The writer remembers Judge Cooley's telling him in the fall of 1883, that he had had no vacation for some years, and had made up his mind to take one, and that he should leave Ann Arbor for Chicago the next morning. The next morning's train took him to Chicago, getting him there about eight o'clock in the evening. That night he attended the banquet given to the Lord Chief Justice of England; the banquet ended, he took the first train for Ann Arbor, and was back at his desk again next day, hard at work once more, his vacation being over. While engaged in his official work at Lansing, he could be found in his rooms at the Court Chambers long before many of the lawyers who were to try cases before him, were out of bed. And while at Ann Arbor engaged in his work as a Law Professor and Law writer, he was regularly at his desk from eight in the morning until five or six at night, stopping only for an hour at noon for lunch; then at night, work was again resumed in his private library.

At Washington, in the discharge of his duties as Interstate Commerce Commissioner, he is to be found at the rooms of the Commission early in the morning before any of the clerks have arrived, and late in the afternoon, after the clerks have gone away. Any ordinary man would have broken down under the strain years ago; the fact that he has led a life of the utmost simplicity, has no doubt contributed much in the way of enabling him to endure the strain. While Judge Cooley is possessed of that unwearied patience of application which is one of the characteristics of genius, even if it be not

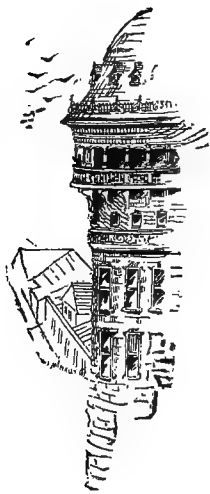
genius itself, he is also possessed of the ability to work with ease and rapidity. The facility with which he performs his mental operations, and commits the results to writing would astonish most lawyers and judges. He is not oppressed or disconcerted by any amount of labor that is thrown upon him. A man of modest and unassuming manner, he is wholly without pretension, as ready as John Marshall to go through the streets with a bundle in one hand, and a basket in the other, if that seems the quickest way to get the desired articles to their place of destination.

He would answer to the characteristics of Bacon's ideal Judge: "Judges ought to be more learned than witty, more reverend than plausible, and more advised than confident." He would not be called a talkative man, and yet it would not be true to say that he is taciturn. He enters into conversation readily and can talk with all the simplicity and distinctness which characterizes his written works. When not engaged in conversation he appears somewhat grave and stern, but when he begins to talk that disappears, his countenance brightens up, and his expression changes with the current of his thoughts. He is mild and even tempered, and one long and intimately associated with him on the Bench, told me that he had never seen in him the slightest sign of anger, irritability, or even haste, and added, that if Judge Cooley had an evil thought, it never escaped in his presence.

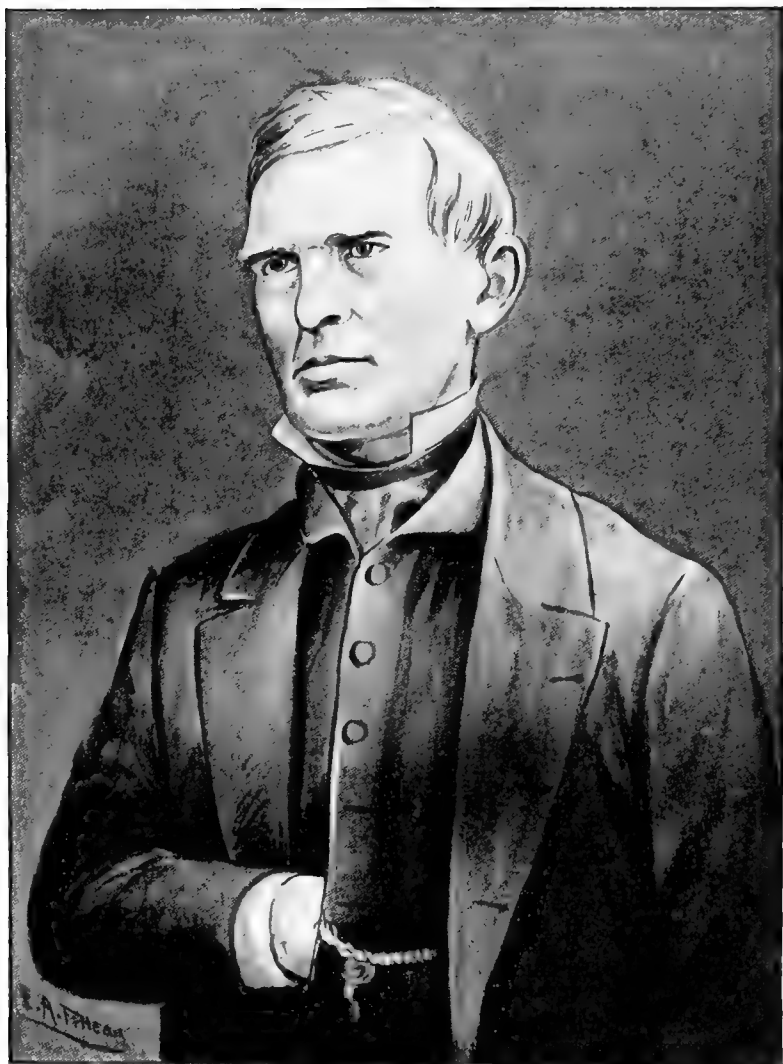
Justice is properly considered to be the great interest of men on earth, and it has been said that whoever ministers at her altar, or contributes anything to make the foundation of her temple more firm, or to raise its dome nearer to the skies, joins his name and fame to that which must be as enduring as the fabric of human society. That the subject of this sketch has wrought with zeal and fidelity in this work, is evident, and his

name will shine in the gladsome light of our jurisprudence through all the years to come.

During last year, Judge Cooley met a severe blow. His good and faithful wife peacefully crossed the chilly waters into eternity, and left him sorrowing upon the earth alone. Profound regret was manifested throughout the land, and in his bereavement, the great lawyer has the condolence and sympathy of the entire country.







*J. F. Crittenden*

## JOHN JORDAN CRITTENDEN.

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JOHN JORDAN CRITTENDEN was born in Woodford county, Kentucky, in the year 1785. His father was accidentally killed in the woods when John was a child, and his mother reared him in the paths of industry, and imbued him with a keen appreciation of the attribute of honor, which was a marked characteristic of his whole life.

He was carefully educated for the law, and after his admission to the Bar, commenced the practice in Hopkinsville. Shortly afterward he settled in Frankfort, the capital of the State, where he rapidly arose to eminence in his profession. At the age of thirty-one he was elected to the House of Representatives from the Frankfort district, and was elevated to the Speakership. Almost immediately he was sent to the United States Senate to fill a vacancy, taking his seat in the Congress that convened in the fall after Mr. Monroe's accession to the Presidency, whose administration he earnestly supported. At the end of the term for which he had been elected, he resumed the practice at Frankfort. He was successively elected to the Legislature for several sessions, and in 1835, returned to the United States Senate, where he served until General Harrison was elected President, when he was called to the Cabinet as Attorney General. President Harrison's death occurred a month after his inauguration, and Mr. Crittenden resigned, but was returned to the United States Senate to succeed Henry Clay, retired. He was re-elected, but before the

expiration of his term, he resigned to accept the Governorship of his State, to which he had been elected by the Whig party. When Millard Fillmore, by the death of General Taylor, succeeded to the Presidency, Mr. Crittenden was the second time called to the Department of Justice, where he remained until the inauguration of Franklin Pierce. In 1855 the Legislature of Kentucky returned him to the United States Senate, and at the end of his term he was elected to the Lower House of Congress, which was the first meeting of that body under President Lincoln. He was undoubtedly the most distinguished person in the House. He had never served in that body, his whole political life in Congress having been in the Senate.

Mr. Crittenden was appointed Associate Justice of the Supreme Court of the United States by John Quincy Adams, but was rejected by the Senate, which was controlled by the adherents of General Jackson. The cause was purely political. His ability as a lawyer did not enter into the problem as a factor; that he was able, and competent was never questioned. Henry Clay, who plainly saw that he would not be confirmed, wrote to him to, "cultivate calmness of mind and prepare for the worst event."

Mr. Crittenden, during his whole course in the Senate, supported almost every measure advocated by his illustrious colleague, Henry Clay, and the principles of the Whig party, of which they were such prominent exponents.

Mr. Blaine, in his "Twenty Years of Congress," says of him: "Mr. Crittenden's ability was of a high order. He stood at the head of that class of statesmen who were next to the highest grade. Like so many other eminent Whigs, he was excluded from the full recognition of his power by the overshadowing prestige of Mr. Clay and Mr. Webster. The appearance of Mr. Crit-

tenden in the House in his seventy-fourth year, was his patriotic response to the roll-call of duty. He loved his country, and his whole country, and every effort of his waning strength was put forth in behalf of the Union. It was his influence, more than that of any other man, which saved his State from the vortex of rebellion. But for his strong hold upon the sympathy and pride of Kentucky, the malign influence of Breckinridge might have forced the State into the Confederacy. Mr. Lincoln considered Mr. Crittenden's course entitled to the admiration and gratitude of every man who was loyal to the Union."

Mr. Crittenden's famous resolution in relation to the war, received only two negative votes in the body. It reads as follows:

"That the deplorable Civil War has been forced upon the country by the Disunionists of the Southern States, now in arms against the Constitutional Government. In this National emergency, Congress, banishing all feelings of mere passion or resentment, will recollect only its duty to the whole country; that the War is not waged in any spirit of oppression, or for any purpose of conquest or subjugation, or the overthrowing or interfering with the rights, or established institutions of those States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; that as soon as these objects are accomplished, the War ought to cease."

Mr. Crittenden had himself been a soldier in the war of 1812, with Great Britain, and had served with distinction. In person, he was tall, powerful in muscular development, and the very impersonation of that dignity which characterizes the true gentleman of the old school. His manners attracted at once. He was courageous, and his temper was superb in its exposition of good breeding. He was the most successful lawyer of

his era in Kentucky. He possessed that rare accomplishment of determining the character of men, and won his cases by candor and honesty of purpose. It is said of him, that "he spoke as a gentleman to gentlemen, and never used harsh things to harrow the feelings of a jury. He understood mankind. He was clear. He aimed to be candid, and to be comprehended. He could bring tears to his own eyes or his auditors, but they were heartfelt, earnest and honest expressions of his belief."

Among the cases in which this celebrated lawyer was retained, is the case of the Commonwealth of Kentucky vs. Matt. Ward. The defense alleged, a "blamable necessity, not justifiable, but excusable." Ward had murdered his teacher, and alleged that it was done in self-defense. He was cleared, but only through the great efforts and ability of his counsel. Closing paragraphs of Mr. Crittenden's speech read as follows:

"\* \* \* Gentlemen, my task is done; the decision of this case—the fate of this prisoner, is in your hands. Guilty or innocent; life or death; whether the captive shall go free, or be consigned to a disgraceful and ignominious death, all depend on two words from you. Is there anything in this world more like Omnipotence, more like the power of the Eternal, than that you now possess?

"Yes, you are to decide; and as I leave the case with you, I implore you to consider it well and mercifully before you pronounce a verdict of guilty—a verdict which is to cut asunder all the tender cords that bind the heart, and to consign this young man, in the flower of his days, and in the midst of his hopes, to shame and death. Such a verdict must often come up in your recollections—must live forever in your minds.

"And in after days, when the wild voice of clamor that now fills the air, is hushed; when memory shall review this busy scene, should her accusing voice tell you

you have dealt hardly with a brother's life ; that you have sent him to death, when you have a doubt whether it is not your duty to restore him to life. Oh ! what a moment that must be ; how like a cancer will that remembrance prey upon your hearts ! \* \* \*

“ There is another consideration of which we should not be unmindful. We are all conscious of the infirmities of our nature ; we are all subject to them. The law makes an allowance for such infirmities. The Author of our being has been pleased to fashion us out of great and mighty elements, which make us but a little lower than the Angels ; but He has mingled in our composition weakness and passions. Will He punish us for frailties which nature has stamped upon us, or for their necessary results ? The distinction between these, and acts that proceed from a wicked and malignant heart, is founded upon eternal justice ; and in the words of the Psalmist, ‘ He knoweth our frame ; He remembereth that we are dust.’ Shall not the rule He has established be good enough for us to judge by ?

“ Gentlemen, the case is closed. Again I ask you to consider it well, before you pronounce a verdict which consigns this prisoner to a grave of ignomy and dishonor. These are no idle words you have heard so often. This is your fellow citizen—a youth of promise, the rose of his family, the possessor of all kind of virtues and manly qualities. It is the blood of a Kentuckian you are called upon to shed. The blood that flows in his veins has come down from those noble pioneers who laid the foundations for the greatness and glory of our State—it is the blood of a race who have never spared it, when demanded by their country's cause. It is his fate you are to decide. I excite no poor, unmanly sympathy. I appeal to no low, groveling spirit. He is a man, you are men, and I only want that sympathy which man can give to man.

"I have somewhere heard or read a story from one of those transcendent German writers, which tells us that when the Almighty designed to create man, the various Angels of His attributes came in their order before Him and spoke of His purpose. Truth said: 'Create him not Father. He will deny the right, deny his obligations to Thee, and deny the sacred and inviolable truth; create him not.' Justice said: 'Create him not, Father. He will fill the world with injustice and wrong, he will desecrate Thy holy temple, do deeds of violence and blood, and in the very first generation he will wantonly slay his brother, therefore, create him not.' But gentle Mercy knelt by the throne and whispered: "Create him, Father. I will be with him in all his wanderings, I will follow his wayward steps, and by the lessons he shall learn from the experience of his own errors, I will bring him back to Thee.' And thus teach, O man, mercy to thy fellow-man, if thou wouldst bring him back to thee and to God."

At the ripe age of seventy-seven, on the 26th of July, 1863, at his home in Frankfort, he sunk to his rest, a grand old patriot, whose noble life is a fitting example for the study of every American boy, who loves the country of his birth, and who appreciates the inestimable blessings of our free institutions.







*Wm. H. Morrison*





# THOMAS THEODORE CRITTENDEN.

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BY HON. F. C. FARR.

THOMAS T. CRITTENDEN was born on the 2d day of January, 1834, in Shelby County, Kentucky, and his father having died when he was about two years of age he was left to the sole care of his mother, who devoted her life to the proper training of her children. He is a scion of the illustrious Crittenden family of Kentucky. His father was the youngest brother of John J. Crittenden, whose public services, both as Senator of the United States and as Attorney General, distinguished him as a leader, even at a period when the brilliancy of American statesmanship elicited the applause and excited the admiration of the civilized world.

Young Crittenden, thus bereft in infancy of parental care, was fitted in private schools to enter college. He matriculated at Center College, Danville, Kentucky, in 1852 and graduated in the class of 1855. Among his classmates were Judge John F. Philips, Hon. John Young Brown, of Kentucky; Hon. Boyd Winchester, Hon. Wm. C. P. Breckenridge, Hon. Thomas Morrow, Col. Thomas M. Green, Henry M. Scudder, D. D., Herman H. Allen, D. D., Hon. James McGavock, of Tennessee and Hon. Addison Craft, of Mississippi, while Hon. George G. Vest, at present the junior Senator of the United States from Missouri, graduated in the class of 1848.

Upon leaving college Mr. Crittenden immediately entered the law office of his distinguished uncle John J. Crittenden, in Frankfort, the capital of the State. In

1857, he was admitted to the Bar upon examination before Chief Justice Simpson, of the Court of Appeals. The same year he married Miss Carrie W. Jackson, at Frankfort, and soon afterward removed to Missouri and settled at Lexington, Lafayette county, where he entered into partnership with Judge John A. S. Tutt.

Lexington then, and for many years afterward, was regarded as the home of culture, wealth and social refinement in Missouri. Here Mr. Crittenden resided, enjoying an extensive and lucrative practice until the beginning of hostilities, in 1861, when, espousing the cause of the Union, he entered the service of his country, as Lieutenant-Colonel of the Seventh Missouri Cavalry, and served until the close of the war. His military record was distinguished for soldierly bearing, chivalric devotion to duty, and courageous defense of the lives and property of non-combatants. His regiment did effective service along the border, which was then aflame with a predatory warfare, waged with relentless indiscrimination by unauthorized bodies of troops, who, owing allegiance to no flag, preyed upon the defenseless wherever found. To Lieutenant-Colonel Crittenden, was due much of the credit attaching to the Union armies for the suppression of this detestable species of warfare, and the Seventh Cavalry was several times mentioned in words of high commendation by the Generals commanding divisions to which it was attached. When the war closed, Mr. Crittenden returned to the practice of his profession, and established his residence at Warrensburg, Johnson county, Missouri.

In 1865, he formed a copartnership with General F. M. Cockrell, now the senior Senator of the United States from Missouri, who had then recently returned from four years service in the Confederate army. With Mr. Crittenden as its senior member, the firm soon

gained a large practice and became universally recognized as one of the leading firms in the State.

During the years from 1865 to 1870—known as the “test oath” or “disfranchisement period” in Missouri, Mr. Crittenden was the staunch friend and defender of disfranchised ex-Confederates. He took the high position that the war was over; that the South, as an organized force, resisting the authority of the United States was conquered, and that the Union army had accomplished everything for which a bloody war had been waged, or else the war was a failure; that the fruits of victory were either peace, friendship, reconciliation and good-will, or else a vast majority of those, who, for four years had faced the storm of death, had been deceived as to the purpose of the war. Embracing these principles with all the ardor and courage of his soul, he threw himself into the thickest of the fight. Into this fight he carried a tremendous influence, and his eloquent and convincing arguments, often made at the risk of his life, were potential factors in that memorable contest, which resulted so triumphantly for liberalism and fraternity.

In 1872, he was nominated by the Democratic party in the seventh congressional district of Missouri, as its candidate for Congress. The district was then represented by a Republican, and it was thought that Mr. Crittenden was leading a forlorn hope. He was elected by a large majority. Again in 1876, he carried his party's banner, and received the largest majority ever accorded to any candidate in that district. In 1880, he was nominated by the Democrats and elected Governor of Missouri.

His administration of the office of Governor was, in many respects, the most remarkable one known to the history of the State. However paradoxical the statement may appear, truth warrants the claim that no administration, since the State was admitted into the Union, ever accomplished as much of lasting benefit to

the State and her people, as did Governor Crittenden's, and yet it is equally as true, that no governor of any state was ever abused and maligned as he was. The two great questions with which his administration is chiefly criticised, was the matter of the State's settlement with the Hannibal & St. Joseph Railroad Company, and the question of how to rid the State of outlawry. Chiefly, perhaps, to the measures adopted by Governor Crittenden in his dealings with outlawry, may be attributed most of the unfair and dishonest criticism of which he was made the subject. Whatever the real cause may have been, that at least, was made the pretext. For the purpose of these brief annals, it is, perhaps a sufficient answer to the critics of his administration to say, that the position assumed by Governor Crittenden in the Hannibal & St. Joseph railroad bonds matter, saved to the people of Missouri nearly \$700,000.00; that he has been sustained in every court into which the Railroad Company has taken the case; that the boldest and most daring band of outlaws known to civilization is extinct; that life and property are as safe in Missouri to-day, as in any state in the American Union, and that property and Missouri securities appreciated forty per cent within a few months, as the direct result of his policy in those matters.

Only the salient points in Governor Crittenden's career are given, and, of necessity, these are but imperfectly presented. Of noble lineage, he is worthy of his illustrious name and ancestry. He has been honored by his adopted State. In turn, he has honored his State and served her people faithfully and well. History will accord him a place among patriots and heroes.

As an orator Governor Crittenden ranks high. Some of his addresses are masterpieces of logic and eloquence. As an example of pathos, an extract from a memorial address delivered in Congress, by Mr. Crittenden, on

January 23, 1878, upon the life and character of Honorable Lewis V. Bogy, who died while a Senator of the United States from Missouri, is subjoined:

"MR. SPEAKER: Death has invaded the Senate of the United States, in two notable instances, since the last Congress adjourned. Indiana and Missouri have deeply felt the intrusion, and in their common sorrow have been drawn together as loving mothers, to mourn the death of their honored Senators. Death is a common leveler of all. It enters the palace of the rich and the hovel of the poor, with the same indifferent step, and the loved ones of each fade away under its touch, into the dust of the valley. Senators and statesmen, upon whose words millions have hung with eager ears, in their fierce forensic combats for fame, for policies, and power, are as unable to resist its mandates as the babe that sleeps in its weakness on its mother's bosom. \* \* \* It awaits the triumphs of earth's greatest leaders, until the applause of mankind has made its hero drunken with praise, and then by its touch it scathes the weak, and makes the great and the strong waste away as the morning dew. \* \* \*

My sad task is over. Senator Bogy has closed his earthly career, and is in his grave awaiting the final summons. Calmly he slumbers beneath the soil of his native State, within the sound of the great city which gave him a home and a grave, and which, with its half million of eager population, ever stands, night and day, a vigilant sentinel over the tomb of its honored Senator. Embowered in the peaceful shade of his own beautiful resting place, through whose stricken boughs the fierce wintry winds are now chanting their requiem, the Senator, the patriot, the father, the husband, and friend, sleeps the sleep that knows no earthly waking. As a Missourian who knew and loved him well, I say: farewell! a long farewell, to as kind a friend, to as true a man, to as noble a patriot as ever lived!

‘Lay him down gently at the iron door!’”

As a lawyer, Mr. Crittenden ranks high. He is careful, honest, painstaking and laborious, and having undertaken a cause he devotes to it every power of his intense nature. As an advocate, few men possess more power with juries. His arguments and appeals touch every note upon the key-board of the human soul, while the intense earnestness of his own belief in the justice of his career, impresses itself upon every hearer. At the close of his gubernatorial term he removed to Kansas City, where he now resides, engaged in practicing law.

His messages and State papers, during his term as Governor, are accorded a high rank among productions of that class. A few brief paragraphs from his inaugural address, delivered to the General Assembly of Missouri, on January 10, 1881, are given as an illustration of his style in this kind of composition:

“Called by a majority of the people of Missouri, and to that majority a cordial acquiescence being given by an intelligent minority, to assume the duties of Chief Magistrate of the State, I am ready to devote my time and attention to the requirements of the office, and now promise you an earnest co-operation in all that may tend to promote the well-being and well-doing of this great Commonwealth. My predecessor having filled the office with such distinguished ability, and performed its duties with such singular success, leaves it a difficult place to occupy. I may not bring to the performance of those duties as much ability as he displayed, during the four years he made honorable the office, yet I will strenuously endeavor to make his administration, in many things, a model worthy of the closest imitation. \* \* \*

“If the oceans and gulf, guarding like sleepless sentinels our borders, were by some magical power, changed in a moment into broad expanses of fire, thereby limiting our people to the productive capacities of our

soil and the inherent energy of their natures for their support and prosperity, no panic would be created on this continent by the separation, and no deprivations causing want or sorrow would follow. \* \* \*

"The educational interests of the State are fixed upon a firm foundation, and should be sacredly guarded and wisely fostered. Parsimony toward education is liberality toward crime. \* \* If prodigal at all in expenditure of the people's money, let it be in the interest of education. Crime as inevitably gives way before the march of education as the Indian, the buffalo and wolf do, before the tread of civilization. No State is great until its educational facilities are great, and at the door of the poor boy in the cabin, as well as within the reach of the spoiled child of fortune.

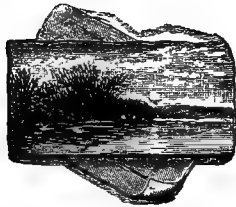
"There is no cheaper defense to a community or a commonwealth than education. It is a stronger and safer bulwark, more unfailing and vigilant than the most powerful armaments of wood, iron and steel, and it makes its recipients the boldest defenders of the rights, and the most uncompromising enemies of the wrong. \* \* Let no efforts be considered too great, no patience too exhausting and no means too arduous, to extend it to all classes of society."

The above extracts will suffice to illustrate both the earnest patriotism of the man, and his felicitous power of expression. His diction is peculiarly happy and graceful, and his style marked by rare perspicuity. It will be observed that he never deals in recondite phrases or figures, but, if the expression be permissible, expresses himself with graceful bluntness, and always with force and precision.

To those who are honored by his friendship and acquaintance—and who is not—Governor Crittenden is a charming companion. Cheerful, courteous, and of a happy disposition, he dispenses sunshine and happiness

wherever he goes. Honest, brave, gentle, kind and true, he is an honor to his race—a model gentleman.

Governor Crittenden is still in the enjoyment of good health, though recently the victim of a stroke of apoplexy. His recovery is complete and many days of usefulness are yet before him. When the roll-call of the resurrection shall raise him from the shades of the valley, he will find, history has recorded of him, that he lived an honorable and useful life, untarnished and unstained, and that he kept the illustrious name of Crittenden unsullied, from the cradle to the grave.







*Hubbards*

# SHELBY MOORE CULLOM.

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BY JUDGE JOHN MOSES.

There is no description of literature more instructive or more interesting than the biographies of the great men of a nation. And when such biography comprises the recital of early struggles and ultimate triumphs, its interest is heightened and its influence broadened. Young men find their courage to encounter the obstacles which beset life's pathway, strengthened by reading of the resolute purpose and manly endurance, which have triumphed over every difficulty, and have enabled their possessor to rise from early obscurity and poverty, to ultimate eminence and power.

Illinois has been fortunate in the number of her sons who have written their names upon the Nation's roll of honor. Thereon is inscribed, in letters of living light, whose brilliancy Time cannot dim, the name of Abraham Lincoln—statesman, hero, patriot, martyr. Nor in the halls of Legislation has the State ever failed to be represented by men whose mental power and moral worth reflected honor, not only upon the Commonwealth, whose interest they had guarded so well, but even upon the entire country. From 1818, the year of the State's admission into the Union, when the eloquent voice of Daniel P. Cook was heard in Congress, and his potent influence was felt in shaping the Governmental policy, which so stimulated the growth, and enhanced the prosperity of the Nation, down to the present time, Illinois has never lacked men of brains, influence and reputation. The names of Hardin, Baker, Wentworth, Bissell and

Washburne, of the House, and of Breese, Douglas, Trumbull, Browning, Yates, Logan and Cullom, of the Senate, constitute a galaxy not easily matched by any other State.

All these entered public life through the portals of the legal profession. Nor is this fact a cause for surprise, when it is remembered that with the exception of a comparative few, whom military renown or accidental circumstances have brought into prominence, the ranks of public men in the United States have been chiefly recruited from the members of that same profession. Nearly all those men, who have been influential in framing the legislation and shaping the executive policy of the Republic, have enjoyed that mental training, that sharpening of the wits, which no other vocation can bestow, and which imparts a power of logical analysis, a grasp of the intricacies of any given question, a fluency of rhetoric, and a charm of oratory peculiarly characteristic of members of the Bar.

Shelby Moore Cullom, son of Richard Northcroft and Elizabeth Coffey Cullom, was born in Monticello, Wayne county, Kentucky; November 22, 1829. His father removed to Tazewell county, Illinois, the following year, so that young Shelby narrowly missed being a native of his adopted State. Hon. R. N. Cullom was a prominent and influential Whig in his time, and frequently represented his district in both Houses of the General Assembly. He was a farmer, and the embryo Senator was early accustomed to the homely fare and rough work, incident to farm life in a comparatively new country. His hands soon learned to swing the axe and guide the plow, and it was in such pursuits as these that he acquired that magnificent physical strength, which, in the long years devoted to public service, has made labor easy and toil a pleasure.

During his boyhood days, educational advantages in

the West were limited, the curriculum of the country school being usually considered sufficient to equip a young man for the practical battle of life. Shelby M. Cullom, however, was not content with this. He decided not to follow the business of his father, but to devote himself to the law, and felt the need of a broader and deeper culture. Fortunately, he was enabled to spend two years in study at the Rock River Seminary, at Mount Morris; though, in order to maintain himself, he found it necessary, as did Blaine, Garfield, and others, to devote some time to teaching.

In 1853, he entered the office of Stuart & Edwards, at Springfield and began the study of law. His health becoming impaired, his progress was slow; but persevering, after a rest on his father's farm, he was admitted to the Bar and began the practice of his chosen profession in 1855. Soon after this he was elected city attorney of Springfield, and was initiated into active practice. He recommended himself to his brother lawyers by his studious and abstemious habits, and his faithful attention to the interests of his clients. The Bar of Springfield, at this time, was the ablest in the State. That Nestor of the Illinois Bar, Stephen T. Logan, headed the list, followed closely by John T. Stuart, Abraham Lincoln, Benjamin S. Edwards, James C. Conkling, Milton Hay, John A. McClernand, Charles S. Zane, and others. Springfield being the Capital of the State, was also the rallying point of all its leading lawyers. Williams, Browning, Linder, Arnold, Butterfield, Walker, Gillespie, and many others were frequently there, in attendance upon the courts.

From trying petty municipal cases, and after passing through that ordeal of Justices Courts, which seems to be the inevitable experience of many great lawyers, young Cullom entered upon a broader field of practice. In the Circuit Court, he found a higher plane for the

exercise of his talents, and here he was pitted against some of the foremost practitioners of those days. In these forensic contests, his habits of close application afforded him pronounced advantage over those whom success is prone to render careless. As an advocate, while not endowed with the inspiration of an orator, his presentation of a case before a jury, was always concise and logical. His aim was to explain rather than confuse; to convince rather than dazzle.

The immediate effect of the outbreak of the Civil War upon the business of the legal profession was disastrous in the extreme. It is true that enlistments depleted the ranks of lawyers, but unfortunately for those attorneys who remained at home, the number of clients was reduced in a still higher ratio, while the absence of witnesses "at the front" delayed, if it did not positively prevent, trial. However, "there is no state of life without its compensations," and the litigation growing out of new internal revenue legislation and other questions incident to the changed condition of affairs, soon proved immensely lucrative. In consequence, the income of Mr. Cullom, during the last year of the war exceeded \$20 000, and had he, like Sir Joseph Porter, K. C. B.

"Stuck close to his desk and never gone to sea."

as did his partner, Hay, he might, like him, have been reckoned to-day among the men of wealth, rather than numbered among the larger class, whose yearly income is dependent upon their yearly labor. But it might be borne in mind that until the era of railroad building, the practice of law in Illinois was not particularly remunerative. True, Lincoln obtained a professional fee of \$5,000 from the Illinois Central Railroad Company in 1855, but the charge was alleged to be exorbitant, and the aid of the courts had to be invoked to enforce its payment. A fee of \$500 was regarded as "very high," and few were the attorneys who could obtain, and rare the

cases which would justify, such a charge. The hard-working attorney, who "rode the circuit" and devoted his entire time to the pursuit of his profession, considered himself fortunate, if at the end of the year he could figure up his income at \$2,000. What wonder, then, that some of the brightest and most profound lawyers in the State found it difficult to resist the temptation to better their worldly fortunes, and perhaps achieve distinction by entering the arena of politics?

Following the example of Judge Logan, Lincoln and Stuart, in 1856, Cullom made his *debut* into political life by entering the race for membership in the Lower House of the General Assembly. Influenced by his early Whig training, Mr. Cullom admired Millard Fillmore, and was one of six men elected to the Legislature that year who supported Fillmore for President, and was supported by his Fillmore friends in the Legislature for Speaker of the House. His legislative canvass was successful, and he took his seat in the Lower House at the succeeding session. He was now fairly launched in his political career, a mere allusion to the salient points of which is all that the limits of the present article will permit. The Legislature of 1857 was Democratic, and intensely partisan. There was consequently not much opportunity for a new member, especially one belonging to the minority, to show what he could accomplish in the way of guiding legislation.

The voters of Sangamon county were chiefly from the slave-holding States, and although a majority of them had always been Whigs, so strong was their prejudice against anything that savored of abolitionism, that upon the organization of the Republican party the county placed itself squarely in the Democratic column, where, with only semi-occasional interruptions, it has ever since remained.

Cullom had always been in sympathy with the prin-

ciples of the Republican party, and being a warm personal friend of Abraham Lincoln, was one of his strongest supporters for the United States Senate in 1858. Notwithstanding all this, however, and despite the variance in political creed between himself and his constituents, so well pleased were the latter with his services as a representative in 1857, that in 1860 he was again induced to become a candidate for the Legislature, and although the county gave the Douglas electors a small majority, such was his personal popularity, that he was returned to the House by a majority of sixty-two votes. The Republicans, for the first time, secured ascendancy in the Legislature, and Cullom, on account of his generally admitted qualifications for the position, received the Republican caucus nomination for Speaker, and was of course elected, thus securing the distinction of being the youngest member upon whom this honor had ever been conferred in Illinois. The future was now full of promise for him, and his successful career as a public man seemed already secured. As a presiding officer, he graced the position with rare dignity, fairness and courtesy, evincing a comprehensive grasp of its complicated duties, such as had not been seen in any American Parliamentary body since the days of the peerless Henry Clay.

In 1862, he was appointed by President Lincoln, in connection with Governor Boutwell, of Massachusetts, and Charles A. Dana, of New York, a commissioner to examine and pass upon the accounts of Quartermasters and United States disbursing officers. This was an important service, and one which required the exercise of discriminating care and sound judgment, and the intelligence and fidelity with which it was performed were shown by the able report which was presented.

The same year, he was prevailed upon, much against his inclination, to become a candidate for the State Senate. But owing to the unpopularity of the war at this,

its darkest period, he, as a representative of the party, which was unalterably pledged to its prosecution, suffered his first and only defeat.

In 1864, he received the Republican nomination for Congress in the old eighth district. His competitor was his former preceptor, Honorable John T. Stuart, the sitting member. The canvass was most exciting, and its issue showed that Cullom had succeeded in transforming a democratic majority of 1365 into one of 1785 in his favor. On being transferred from the Legislature to Congress, Senator Cullom realized the fact that he had entered upon a broader field of action, involving larger duties and higher responsibilities. It was during that interesting period of reconstruction when the best thoughts of the ablest men of the Nation were brought into constant requisition, in the effort to solve the multitude of perplexing problems presented. An examination of the Congressional *Globe* reveals the fact that he was an active and aggressive member, taking his full share in the debates. He heartily favored the thirteenth fourteenth and fifteenth amendments to the Constitution, and in the memorable contest between the Legislative and Executive branches of the Government, gave an unqualified and unwavering support to the Congressional policy of reconstruction.

Having been appointed to the responsible position of chairman of the Committee on Territories, he was the first to recognize the necessity of promptly dealing with the difficult questions growing out of the practice of polygamy in Utah. He introduced a bill on this subject, entitled "An act in aid of the execution of the laws," providing stringent measures for the suppression of that "twin relic of barbarism," and succeeded in securing its passage by the House. He also, much to the gratification of his immediate constituents, secured an appropriation of \$320,000 for the construction of a Federal

Building at Springfield, which not only met a long-felt want but, at the time of its erection, was regarded as one of the architectural attractions of that beautiful inland city.

Cullom was re-elected in 1866, and again in 1868, but in 1870 a factious opposition to him had been fomented, which resulted in the nomination of another candidate, and in the loss of the district to the Republicans. In 1872 he was again returned as a member of the State Legislature, and, being the unanimous choice of his party was once more elected Speaker. In 1874 he was, for the fourth time the chosen representative of Sangamon county in the General Assembly, and would undoubtedly have again succeeded to the Speakership but for a successful combination of Independents and Democrats, which controlled the organization. It was at this time that the friends of Mr. Cullom began to put forward his name as a candidate for Governor of the Prairie State. His fitness for the position, by reason of his ability and large experience in public affairs, although yet a young man was admitted on all hands, and when the State convention met in the centennial year, it was found that a large majority of the delegates were favorable to his nomination. His election followed in the autumn and his inauguration at the beginning of the succeeding year.

In the administration of the State Government, Governor Cullom developed the highest qualities of statesmanship to keep expenditures within due and economical bounds, to discharge the last cent of State indebtedness, to exercise an intelligent supervision over the several State institutions, benevolent, educational, penal and reformatory. These were the tasks which he set for himself, the accomplishment of which he bent the best powers of his mind. Wherever the interests of the State fell within the purview of the executive department, the most patient and thoughtful attention was

bestowed upon them. To preside over a great Commonwealth like that of Illinois, surpassing in wealth, importance and resources, many of the minor states of Europe, in such a way that every department and bureau shall work in concert in the development of the moral and material progress of a mighty people, requires not only the guiding hand of practical experience, but also rare wisdom in the selection of the men and measures best adapted to secure the desired result. At the end of his four years' administration of State affairs not a word could be urged against the Governor's executive policy, even by his political foes, and he was elected to serve a second consecutive term—the first instance of such a reelection in the State.

The expiration of the term of David Davis, as United States Senator from Illinois, in March, 1883, suggested the election of a Republican to succeed him. General Oglesby, who had been defeated for the position by Logan, in 1879, was willing to accept the nomination, as were also General Raum, and several others. But notwithstanding the fact that Cullom was only midway through his second gubernatorial term, and was, in a measure, under obligation to serve during the remainder of the period for which he was elected, the Republican caucus of the Thirty-third General Assembly nominated him to represent Illinois in the United States Senate, and he was accordingly elected. The conferring upon him of this, the highest honor in the gift of a State legislature, was not the result of the manipulation of party machinery, but was rather the reward for faithful and meritorious services rendered to the State in various capacities during the ten preceding years. So recent an event as his re-nomination by his party, without opposition, and his subsequent election to the Senate in 1890, is too fresh in the public mind to call for more than passing mention.

When Senator Cullom first took his seat in the United States Senate, he found his previous experience as a legislator of no small value to him; not only because of the practical insight into affairs which it gave him, but also on account of the recognition of this fact by his brother Senators. In his case, the unwritten law of "senatorial courtesy" did not relegate him to an inferior position as a new member. He was soon assigned to the chairmanship of an important committee, and at once began to take an active part in the proceedings of that august body. It is no light honor to occupy a seat in the United States Senate, a body which numbers among its ornaments in the past such statesmen as Webster and Clay, Seward and Sumner, men whose fame belongs not alone to the land of their nativity but to universal humanity. And if the "American House of Lords" no longer listens to the oratory of a Douglas, a Yates, or a Blaine, it does not lack those who, if not so eloquent, are not one whit less able and influential than were any of their predecessors. Among these are Evarts, Sherman, Edmunds, Ingalls and Cullom.

Perhaps his senatorial career has been brought most prominently before the public through his introduction and championship of the Interstate Commerce bill, which he successfully piloted through both houses of Congress. The importance, if not the necessity, of governmental control of railways had long been recognized, and Mr. Reagan, of Texas, had for years been striving to effect the adoption of some measure looking to this end, but his persistent agitation had no practical outcome, and very little had been done on the subject in the Senate until the task was assumed by the Senator from Illinois. The opposition to this class of legislation was exceedingly difficult to overcome, and it required the utmost tactical skill to insure success. How this was eventually compassed by Senator Cullom is a matter

of history, full of interest but which lack of space forbids describing at length. Suffice it to say that the law passed and has been in full operation since. While it is doubtless not perfect, and is not accomplishing all that its friends had hoped, it forms an entering wedge, which, in the end will very largely contribute to the solution of the problem of Interstate Commerce and Transportation.

The mental characteristics of Senator Cullom are of the solid and practical rather than of the brilliant or showy description. He is endowed, in a high degree, with that indefinable "sixth sense," which is, in effect, the combination of common sense with tact, and which so often stood Lincoln in good stead, when every other resource failed. While not gifted with genius, his is an essentially strong intellect, capable of reaching safe, prudent and reasonable conclusions, though not by intuition.

As a speaker he is entertaining and convincing, rather than rhetorical. Yet when, in 1872, he was called upon, at the National Republican convention to place in nomination General Grant, and when, eight years later, at a similar gathering, he performed a like service for his colleague, Logan, he surprised and delighted his friends by revealing powers of oratory of which they had not supposed him master.

In person Senator Cullom is tall and spare, his hair black, his forehead high and massive, and his features mobile and clearly cut. He closely resembles Lincoln in physique, as he does in not a few of his mental characteristics. Unlike that great man, however, the Senator possesses a natural ease of carriage and grace of manner, which have in no small degree contributed to his popularity.

Senator Cullom is sixty-one years of age, of robust strength, and enjoys the virile vigor of a man at two

score. There are years of usefulness yet before him, and should the day come when the American people call upon him to fill the chair occupied by those two other great sons of Illinois—Lincoln and Grant—the record of his past affords the surest guarantee that the destinies of the Republic may safely be entrusted to his keeping.







*Geo. M. Curtis*

## GEORGE M. CURTIS.

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THIS celebrated lawyer of the present generation of eminent advocates, was born in 1843, in the State of Massachusetts. On the paternal side he is descended from a well known Irish family, one of whom was a distinguished sailor and fighter in the British service. On the maternal side, he is descended from Scotch and Italian ancestry; one of his maternal ancestors by the name of Hunter, having married a Corsican lady named Paoli.

The subject of this sketch attended school until the breaking out of the war, when he joined the Third Battalion of Massachusetts Rifles, under the command of Major, afterward General Charles Devens, and proceeded with his comrades to invade "the sacred soil." After his discharge from the army, Mr. Curtis entered the law office of the Hon. John W. Ashmead, an eminent advocate in the City of New York, and was admitted to practice in the year 1864. He was elected to the Legislature in 1863 and 1865, and served one year as Assistant Corporation Attorney. In the fall of 1867, he was elected Judge of the Marine Court, and served his full term of six years, going back to the Bar in 1874. He has been repeatedly nominated for Judicial and Congressional position, but has always declined to serve, preferring above all things the life of an advocate.

Since 1874, Mr. Curtis has been actively engaged in the practice of his profession, and his engagements have taken him into many states of the Union; he has tried causes in nine different ones. Among the most celebrated are the following:

The Friedman Will Case, tried in New York in 1874.

The Bouden Will Case, tried in New York in 1876.

Commonwealth vs. Buford, tried in Kentucky in 1879.

The Leslie Will Case, tried in 1880.

The Rhinelander Lunacy Case, tried in New York in 1884.

Commonwealth vs. Riddle, tried in Pittsburg, Pa., in 1885.

The Insanity cases in which the noted Dr. Helmbold was the person interested, tried in Philadelphia and elsewhere.

The John Anderson Will Case, tried in New York in 1887.

The Atlas Steam Ship Case, tried in New York in 1887.

The Coffin Lunacy Case, tried in New York in 1888.

The Lane Will Case, tried in New York in 1890, and a host of others.

Besides these, Judge Curtis has appeared in different parts of the country in forty-six murder cases, and none of his clients ever suffered capital conviction, except one, Charles McElvaine, and this case is now pending on appeal to the Supreme Court of the United States. Mr. Curtis has tried causes of all kinds; those affecting admiralty and commercial interests, the rights of corporations, the doctrine of negligence, testamentary capacity, real property, the law of eviction, undue influence, as well as those concerning life and death. His entire life may be said to have been passed in harness.

The Leslie Will contest, in which Mr. Curtis was opposed by Judge Fullerton and Edward N. Dickerson, was a very remarkable struggle. The late Frank Leslie, the famous publisher, when he died, left a will by which

he bequeathed his entire estate to his widow, one of the most successful women of the world. His children contested the will, alleging undue influence and insanity when the will was executed. The trial was a noted one, and the court held that Leslie was sane. Although defeated in the case, Judge Curtis displayed his usual ability, and the defeat, under the circumstances, is nothing to his discredit. Upon rendering the decree, the Court held that though Mr. and Mrs. Leslie had both been divorced from previous union for the purpose of marriage, together with other facts proven previous to such marriage, that it did not constitute a *prima facie* case of "undue influence."

The most celebrated case in which Judge Curtis has appeared, is that of the Commonwealth of Kentucky vs. Buford, which took place at Owentown, Kentucky, in 1879. He saved him from the gibbet, and Buford died in the asylum at Anchorage, of confirmed *paresis*. The defendant was a man of remarkable natural abilities, of an historic family, and of dauntless personal courage. He was a great student of the Bible, a fine political speaker, and his knowledge of the political history of his country, was surpassed by no man, with the possible exception of Stephen A. Douglas. The religious traits in his character were conspicuous. He believed, in the language of Judge Curtis, "in the self-evident truths of christianity, in the manifest beauties and conceptions of the Sermon on the Mount. He loved to read the book of Job, which Daniel Webster declared as an epic poem, to be superior to the Iliad or Odyssey of Homer. He delighted in reading the Psalms. He rejoiced in the book of Revelations. Yet this character, so bountifully endowed by nature and chartered by Deity to accomplish great results was a life failure. In a moment of vengeance, he wreaked upon Chief Justice Elliott, of the Court of Appeals of the State of Kentucky, in his disappointed malice, slew that

brilliant jurist almost in the 'Temple of the Law.' The immediate moral motive power of the act, was a decision rendered by the Court of Appeals, of which Judge Elliott was the mouth-piece, adverse to the interest and claims of Colonel Buford in an important litigation. There could, of course, be but one defense, that of insanity interposed to save the scion of an illustrious house from the ignominy of the gibbet. That defense was insanity, and there is but little doubt remaining in anyone's mind that the defense which was set up in his case, was justified by the facts, and by the personal history of the defendant subsequent to his acquittal. Judge Curtis stated the doctrine in this case thus:

"I do not contend, gentlemen of the jury, that a slight departure from the ordinary conduct of an individual, or an eccentricity, as it may be termed, constitutes or typifies the condition of mental unsoundness. Acts of eccentricity, in themselves, are but rivulets that feed the mighty stream of madness; but in this case we have proven that the great central idea in the dominion of Buford's mind was, that he had been wronged, pilaged and despoiled, and around the central delusion of his mind, with fascinating hideous, planetary regularity, revolved all the conceptions of his soul, and when he saw by the last adverse decision of the Court of Appeals, his last hope on earth disappear, his mental battalions broke in panic and desolved. Then came the cataract of the frenzy that overthrew the will power; then came with its resistless rush, that stream of madness that carried to death and eternity the life of Judge Elliott; that startled all mankind with a tragic horror unexampled in the history of the jurisprudence of the world."

The exordium of Judge Curtis' address to the jury in this case was very impressive. Two paragraphs are quoted:

"It is fit that this sad and solemn occasion should

be softened and graced by the divine presence of the fair. To what spot does mercy, as typified in the form of woman, so readily repair as to the scene of misery and anguish. Bulwer has most truly and beautifully said that there is no government that can perish; there are no institutions that can be destroyed, if the patriotism of man be as true and sincere as the silent loyalty of woman's mercy and affection.

"I rejoice for myself that this trial has had so many amenities, and that it has had so few asperities. And I can say from my heart with the distinguished orator of Kentucky, who opened this discussion on the part of the prosecution, that at the close of perhaps the *cause celebre* of all generations of jurisprudence, I am conscious of possessing no thought, no sentiment, no emotion of bitterness against any person whomsoever. I recognize in the *personnel* of the prosecution, the same purity of sentiment that we claim for ourselves, and when in the zeal of advocacy I descend for desperate purposes to assail the motives of professional brethren engaged in a cause, may my tongue cleave to the roof of my mouth. I believe, and I say it cheerfully because it is true, that this cause has been conducted by the prosecuting officer, Mr. Montfort, with the dignity and decorum that belong to a gentleman, and with the learning and zeal that belong to an officer of the State, and I predict to you that when he comes to address you, he will not permit the zeal of his advocacy to take him over the line of the evidence as proven, and he will not substitute the inventions of a gorgeous imagination for the sworn declarations of testimony."

Alluding pathetically to early affections in the same case, Judge Curtis said:

"True it is, that mental strength and weakness exist only in the comparative; but true it is that the most gifted beings whom the Almighty God has endowed,

have in some particulars of their career, shown indications of the mental infirmity which we claim affects this respondent. I was very much grieved the other day, to hear even the gallant and chivalrous Colonel Breckenridge, to hear General Rodman, making light of the disappointed affection of Colonel Buford in his early life.

“ True it is, that he sits there to-day, solitary and alone, a childless man. True it is, that about that ancestral tree cluster only himself and brothers, and they are childless men. True it is, that the condemnation provided by Heaven on the intermarriage of close relations has fallen upon the first generation, and when they die, they are the last of their line. Gentlemen, some twenty years ago, he was captivated by the beauty and accomplishments of a Kentucky lady. He believed himself acceptable to her, and the wedding day was set. Every preparation was made for it, but at the last moment she rejected him on the advice of her friends, because they did not believe him to be of sound mind; and great God! in this, the supreme hour of his life; in this, the hour of his great affliction, with all these years of despair and sentiments of prejudice combined to crush him, is it in the heart of any advocate; can it come from the lips of any advocate, to charge to his prejudice one of the sincerest attachments that ever graced the life of any man? How do we know but what, if he had met his destiny in that woman, instead of being here in this mortal peril, he might have been so controlled, so influenced and so directed, that instead of being as it has turned out, a terror to society, he might have been one of its ornaments and one of its prides. How can my friends on the other side feel that it is decorous, that it is even decent, to make sport and humor for a miscellaneous auditory of the disappointment of one of the greatest and divinest feelings in the human heart?”

Judge Curtis' reference to the alleged insanity of Buford, is brimming full of eloquence and pathos:

"Gentlemen, did you ever see the phonograph invented by that sublime genius, Edison? By its instrumentality, he causes a piece of tin-foil, wound round a brass cylinder, to speak the language of joy, pathos and human pity; to utter words of hope, despair and human sorrow. And how does this letter, written by Buford on that day of blood, his foot on the brink of eternity, speak to us to-day? It tells us that the o'er-mastering monomania of his life had conquered the shattered remnants of his reason. It speaks to us of that undying, unfaltering, eternal love for that wronged and sainted sister who now sleeps in the Lord. It tells us that his last earthly provision was for one who, in the days of anguish and pain, had soothed, caressed and cheered him.

"Christianity forbids that you immolate this man. Salvation bursting from the sepulcher of the Lord westward has belted the earth, and it is now returning to the cradle of its birth. The principles taught by the Redeemer in that sacred land, within whose limits are the pool of Bethesda, the brook of Kedron and the Cedars of Lebanon, forbid the sacrifice to human vengeance of one afflicted by the inscrutable power and will of the Deity. \* \* \*

"\* And the proof in this case demonstrates beyond controversy or contradiction that for a long time anterior to this tragedy, Colonel Buford's nights were sleepless, and were passed in mental anguish and disturbance. He walked the floor, muttering to himself, cursing and denouncing real or imaginary foes, and, in wierd communication with the spirits of the departed in the land of shades, listening to voices from an unseen world.

"In the name of our Heavenly Father, whose service is perfect justice, in the name of your wives and children

to whose embrace you will soon return, in the name of Christianity, Humanity, Science, Progress and the Law, lay not audacious and sacrilegious hands upon this mentally benighted man, from his very infirmity under protection of Heaven. In the progress of the ages this country may become only the subject of the antiquary, but let not the historian of that distant day have it to record that a lunatic, o'er-mastered by his fate, afflicted with the direst infirmity with which God has ever chastised any of his children, was, in obedience to the bestial voice of popular ignorance, clamor, prejudice, and revenge, in the gaze of the civilized universe, strangled to death on the scaffold and inhumanly rushed, soul unprepared, unbidden, into the presence of his Maker."

The case caused a profound sensation all over the country and will always be remembered as the most celebrated case ever tried in the State of Kentucky.

Mr. Curtis also appeared for the celebrated Dr. Helmbold in a large number of suits involving his trademark, proprietary rights, and personal liberty. It was charged that Dr. Helmbold was insane and should be restrained. The Doctor was born in the City of Philadelphia, and was a chemist by profession. He prepared a very successful specific known as Helmbold's *Buchu*, and by his energy and sagacity founded a business that extorted revenue from all the nations of the earth, that brought him a golden harvest as the reward of a commercial enterprise, "so broad, liberal and comprehensive," as Judge Curtis expressed it, "that while it had its origin in the Great Republic, it lost not sight of the remoter realms of China, and the people dwelling on the banks of the Ganges." His income for many successive years was in the neighborhood of half a million dollars. Yet this man has passed a great portion of his life in insane asylums, in this country and abroad. He married some twenty-five years ago one of the most

beautiful women of her country and her time. So conspicuous was her loveliness that in Paris she was hailed by its discerning people as the Queen of Beauty.

The Doctor was rescued by Mr. Curtis from several lunatic asylums and for several years thereafter lived with his family in the City of New York. The address of Judge Curtis was a very remarkable effort, and at the close of his argument the noted Doctor was declared sane, and discharged. We quote from the peroration :

“ \* \* \* His foes have stripped him of his estate, have alienated the wife of his bosom and the children of his loins; they have confined him in those earthly hells—the asylums for the insane—and with merciless cruelty more conspicuously wicked than the conduct of the unnatural children of King Lear, they have sought to deprive him of his reason, and send a madman’s soul shrieking to the bar of God. In fact they concentrated upon his unhappy existence all the calamities that can affect the human species.

“Rescue him, your Honor, from the peril of despair; and when you and he appear before the Infallible Judge, you will have the supreme consolation of knowing that because you turned not a deaf ear to the voice of mercy and justice, you are not forgotten by One who never errs.”

Judge Curtis was the counsel for William C. Rhineland, in the celebrated lunacy proceedings tried in 1884. In the summer of 1884, the community was startled by the report that John Drake, an able and experienced lawyer, had been shot in his office, by William Rhineland, a scion of the house of that name. The wealth, social and pecuniary influence of the Rhinelanders were invoked to shield the young man from the consequences of his act by the plea of insanity. He however absolutely justified it upon the ground that Drake had attempted to alienate the affections of his wife from

him, and had persisted in this course after he had warned the lawyer to depart from his alleged vicious ways.

The family to which Rhinelanders belonged was a very opulent one, owning a vast amount of real estate in the heart of the metropolis, exercising great social influence and enjoying great social prestige. The effort, on their part, was to show that the defendant, William Rhinelanders, had a homicidal mania and if he were not restrained in the control of his person or his conduct, he would undoubtedly slay himself or some other individual. The true condition of Rhinelanders's mind, on the evidence, seems to have been that of a highly cultured, intelligent person, with a woeful perversion of the will power, and obstinate to the last degree. And so it was that when his relatives objected to his alliance with Mary McGuinness, a serving woman in the family, he immediately married that lady.

Two of the Commissioners appointed by the Court to inquire into the sanity of William Rhinelanders, reported him insane; the third, the Honorable Edward Patterson, pronounced him, for all the purposes of the law and the scientific principle, a sane man, and his view, which was most ably expressed in his opinion was that afterward adopted by Recorder Smyth, before whom the matter came in the channel of appeal. Recorder Smyth gave to this case the great benefit of his exhaustless energy, profound learning and strict integrity; and the fact that young Rhinelanders is at large to-day is due to the conscientious investigation which the Recorder gave to the voluminous evidence and complicated questions of law presented in the record of this case.

Judge Curtis was counsel for the contestants in the John Anderson Will Case, and was successful. This case seems to have revolutionized the law applicable to testamentary contests. John Anderson was an old citizen of New York, and at the time of his decease had

accumulated a large fortune, variously estimated, but which on the best authority, seems to have consisted in real and personal property of about two and one-half millions of dollars. He devised the bulk of his fortune to his son, John Charles Anderson, and what is known as the Anderson Will Case, was an attempt on the part of his grand-daughter, Mary Maude Watson, to defeat the devise to his son, John Charles. Mr. Curtis fought the case on two grounds: First, want of testamentary capacity on the part of the decedent. Second, undue influence exercised upon and over the decedent by those interested to procure the testament in dispute.

There were two trials of this case. On the first, the very able and experienced Judge who presided, after the plaintiff had submitted her case, and after giving the question an exhaustive consideration, dismissed the complaint upon the ground, substantially, that under the law of the State it had not been established *prima facie* by the plaintiff upon all the proof presented, that the decedent was a person of unsound mind. An appeal was taken to the general term of the Supreme Court, and that tribunal, after giving months of consideration to the case, came to the conclusion that it was the right of the plaintiff to go to the jury upon the evidence she had presented on the first trial, and therefore ordered a new hearing. It was a very close question, and it is impossible to decide how the Court of Appeals would have passed upon it, because the defendants instead of taking an appeal to that tribunal, invoked the destinies of a new trial. The contestant sought to prove that the decedent's mind had become weakened to such an extent by a belief in a communication with the spirits of the departed, that it was easily susceptible to influence, and in that condition was acted upon by persons antagonistic in interest to Mrs. Watson, themselves being the beneficiaries under the will.

The case of Harriet Elizabeth Coffin created a great sensation. Miss Coffin, on her mother's side, is the grand-daughter of the late Commodore Collins; on her father's side, the grand-child of the late Judge Coffin, of Cincinnati. She had all the advantages that wealth, culture, and affection could bestow upon her, and she is naturally a person of more than mediocreatility.

Her physical diagnosis can be stated about as follows: She was of the nervous, sanguine temperament, dark eyes and hair, and would have been extremely prepossessing in appearance, but for an unsightly eruption upon her face, caused undoubtedly, by some irregularity or disease of the liver. She had something of that appearance which is observable in sufferers from Bright's disease in its initial stages. She was highly nervous and excitable, but no positive trace of mental alienation could be discovered, except in one direction. She had a passionate, almost abnormal affection for a popular actor, Mr. Kyrle Bellew, a gentleman whom she had never met, but whom she had seen upon the stage and in the street. There is but very little question that upon the subject of Kyrle Bellew she was unbalanced, but it did not seem to effect the strength of her general faculties, because in a business direction she was eminently shrewd and practical, taking great care of her own person, its safety, and also being successfully solicitous about her money. Proceedings, however, were taken against her to adjudge her a lunatic, and the trial was had before the Honorable John H. Judge and Doctor Chalmers, who sat with a sheriff's jury to hear the cause. Certainly, on the evidence submitted at that hearing, Miss Coffin was a sane woman, so far as the legal and scientific principle is concerned and was so declared; but Judge Barrett, in a review of the case, warmly criticised the action of the jury and intimated that their decision was not based upon a sound and proper construction of the evidence be-

fore them, and he gave the petitioners the right to bring the cause on again for trial if they saw fit to do so. They took no advantage, however, of this privilege, and the case of Miss Coffin seemed to have passed out of public recollection, when interest in her was again revived by some extraordinary and eccentric acts on her part, in relation to Mr. Bellew and another person.

Mr. Curtis refused to appear for her on the second occasion, and she was sent to the lunatic asylum at Middletown.

The Lane Will Contest was one of the most remarkable legal struggles that has taken place in the history of jurisprudence.

Maltby G. Lane, at one time the chief owner of the Third Avenue Railroad, died in July, 1889, very suddenly, in the office of his lawyer. It turned out that he had made a will devising an immense estate to his widow, to whom he had been married but ten months, and whom he had known but about a year and a half—disinheriting his children and grand-children. In this case Judge Curtis appeared for the contestants, and on the trial of the issues the jury stood eleven against the will and one for it. On the second trial of the case, the contestants won easily, the jury giving a verdict breaking the will, within three minutes after their retirement.

The jury were greatly affected by the following incident: Little Harry Lane, four years old, one of the contestants got restless during the summing up of Judge Curtis and repeatedly cried out to his mother who was sitting by, "Oh, mamma I am so hungry." Judge Curtis made such use of this remark that the defense was completely overwhelmed and the trial resulted as above stated. After the verdict the jury in a body repaired to Judge Curtis' office and were addressed by little Harry Lane as follows: "Thank you mens, for your goodness

to me and Flossie." "Flossie" was the sister of the youthful orator. The jury were greatly overcome.

The case of McElvaine mentioned in the beginning of this sketch, as Judge Curtis' only capital conviction, was carried to the Court of Appeals, was considered by that tribunal and the judgment of conviction *reversed*. McElvaine was tried again and once more convicted. This last finding was affirmed by the Court of Appeals and at the present writing this *cause celebre* is in the Supreme Court of the United States, where it will be argued in due time upon Constitutional questions.

Judge Curtis is also Counsel for the Complainant in the great Louisiana Lottery Case, which involves many millions of dollars. Opposed to him in this cause are Grover Cleveland, Francis Lynde Stetson, and a formidable Bar, at the South and in Washington. He has associated with him in the case the Honorable Charles Donohue, of New York, one of the ablest lawyers in America.

Judge Curtis was also one of the counsel in the "Jeannette Inquiry" which was had before a committee of the United States Congress. In closing his argument in the case he said:

"I now surrender the memory of Jerome J. Collins into your hands. The acts of his career, the nobility of his soul, his fortitude and self-sacrifice, his patience under suffering and unmerited dishonor, his scientific attainments, warmth of heart, his religious hope, his Christian charity, his reliance upon God when death, in the guise of an enemy came as his best friend, have all been panoramed in this record and have been gathered into history's golden urn. He sleeps now in the arms of his Savior, that Redeemer whose own birthday he so beautifully celebrated in that mournful carol in the Arctic desolation.

"True, he belonged to an impulsive race, 'who have won every battle but their own,' and he warmly

resented any slight or insult offered to his dear native land. Robert Emmet's epitaph may never be written, but as long as valor and truth are worshiped in the human heart, the name of Ireland and the Irish will not perish among the nations of the earth. Our martyr sleeps not in the soil of the stranger, but in the land of his birth and his fathers. Side by side with that beloved mother whom he so venerated and honored, he is returning to dust; permit his friends to write over the epitaph that records his life, his sufferings and his virtues, the word that will typify all the vengeance we seek for his murder and betrayal—VINDICATED."

Judge Curtis was the first advocate in this or any other country to take the position, that a person in the last stages of Bright's disease, when uremic convulsions had intervened, was incapable of making a valid will. This is now the recognized principle of medical jurisprudence in this country and England.

Outside of his professional labors Mr. Curtis has made speeches upon the "stump" in political battles, and in 1863 delivered a speech in defense of Governor Seymour, in the New York Legislature, which has always been considered a masterpiece of political oratory. He has been also a frequent contributor to the legal and medical journals of the country.

Judge Curtis can hardly be regarded as having attained the prime of life, when age alone is considered; still his achievements in the line of his profession would indicate that he was much older. His practice is chiefly confined to the functions of counsel. He is now retained to try no less than nine will cases, for other lawyers. His income from his practice is immense, and from it he bestows with a generous hand. He gives the freedom of his office to impecunious students, and has now under his tutelage a bright youth, Mr. James J. Martin, whom he is directing according to his excellent

ideas of a start in practice. Such acts of noble generosity are well worthy the emulation of lawyers everywhere. The young man whom Judge Curtis is so assiduously assisting in his struggles, may not only live to do his benefactor honor, but in the next generation, shed the golden luster of forensic glory upon the American Bar, equal to any of the great lawyers before him.

His son, George M. Curtis, Junior, of whom General Hancock said: "He is the most remarkable young man I have ever seen," is being educated for the law under the direct supervision of his distinguished father.

Many years will make their weary rounds before America produces another lawyer possessing the peculiar genius of Judge Curtis. His reputation is ever increasing, and each year that revolves around him leaves in its trace a new ring of glory. His eloquence is passionate and transcendent, his language superb, his voice clear and musical, and his words ring out, not as the mellow trill of the birds, but like cathedral bells upon a serene atmosphere.







*B. R. Curtis.*

## BENJAMIN ROBBINS CURTIS

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THIS eminent lawyer was born in Watertown, Massachusetts, on the 4th day of November, 1809. At the age of twenty, he was graduated at Harvard University, and three years later was admitted to the Bar. For a short period he practiced in Northfield, and then removed to Boston. For nearly two decades he was one of the most prominent figures before the Courts of the country. When President Fillmore appointed Mr. Curtis an Associate Justice of the Supreme Court of the United States, he was but forty-one years old, and his name for the high position was urged upon Mr. Fillmore by Daniel Webster and Rufus Choate.

It was while Judge Curtis was on the Supreme Bench that the celebrated "Dred Scott" case was decided, in which he dissented from the majority of the Court, and his written opinion was a masterly argument; he declared his dissent "from that part of the opinion of the majority of the Court in which it is held that a person of African descent cannot become a citizen of the United States."

In 1857, Judge Curtis resigned his exalted position to resume the practice of his profession, and until his death his services were sought in all parts of the country. He appeared frequently before that Bar in the capital of the Nation, whose bench he had so graced by his talent and professional dignity.

Politics had but very little charm for him, though after his retirement from the Supreme Bench, he served

two years in the Massachusetts Legislature, and in 1874, was the Democratic caucus nominee for the United States Senate.

In the Impeachment trial of President Andrew Johnson, Judge Curtis was of counsel for the defense. He was then nearly sixty years of age but ripe in the study of the law and one of the most prominent figures in that great State trial. At that time there was no lawyer who held higher rank at the American Bar, than Judge Curtis.

In Blaine's "Twenty Years of Congress," he says: "On the 9th of April Judge Curtis, of the President's counsel, opened for the defense. He had no labored introduction, but went directly to his argument. He struck his first blow at the weak point in General Butler's strong speech. Judge Curtis said, 'There is a question involved which enters deeply into the first eight Articles of Impeachment, and materially touches two of the others; and to that question I desire in the first place to invite the attention of the Court, namely, whether Mr. Stanton's case comes under the Tenure-of-office Act? \* \* \* I must ask your attention therefore, to the construction and application of the first section of that Act, as follows: 'That every person holding an official position to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and shall become duly qualified to act therein, is, and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided.' Then comes what is otherwise provided. 'Provided however that the Secretaries of the State, Treasury, War, Navy and Interior Departments, the Postmaster General and Attorney General, shall hold their offices respectively for and during the term of the President by

whom they may have been appointed and for one month thereafter, subject to removal by and with the advice and consent of the Senate.'

" 'The first inquiry which arises on this language,' said Judge Curtis, 'is as to the meaning of the words 'for and during the term of the President.' Mr. Stanton, as appears by the Commission which has been put in the case by the Honorable Managers, was appointed in January, 1862, during the first term of President Lincoln. Are these words, during the term of the President, applicable to Mr. Stanton's case? That depends whether an expounder of this law judicially, who finds set down in it as a part of the descriptive words, 'during the term of the President,' has any right to add 'and during any other term for which he may be afterward elected.' I respectfully submit no such judicial interpretation can be put on the words. Then, if you please, take the next step. 'During the term of the President by whom he was appointed.' At the time this order was issued for the removal of Mr. Stanton, was he holding during the term of the President by whom he was appointed? The Honorable Managers say, yes; because, as they say, Mr. Johnson is merely serving out the residue of Mr. Lincoln's term. But is that so under the provisions of the Constitution of the United States?

\* \* \* Although the President, like the Vice-President is elected for a term of four years, and each is elected for the same term, the President is not to hold his office absolutely during four years. The limit of four years is not an absolute limit. Death is a limit. A 'conditional limitation,' as the lawyers call it, is imposed on his tenure of office. As when the President dies his term of four years, for which he was elected and during which he was to hold, provided he should so long live, terminates and the office devolves upon the Vice-President. For what period of time? For the remainder of the term

for which the Vice-President was elected. And there is no more propriety, under these provisions of the Constitution of the United States, in calling the time during which Mr. Johnson holds the office of President of the United States, after it was devolved upon him, a part of Mr. Lincoln's term than it would be propriety in saying that one sovereign who succeeded another sovereign by death holds part of his predecessor's term.'

"Judge Curtis consumed two days in the delivery of his argument. He made a deep impression, not only on the members of the Senate but on all who had the privilege of hearing him. His manner was quiet and undemonstrative, with no gestures, and with no attempt at loud talk. His language expressed his meaning with precision. There was no deficiency and no redundancy. He seldom used a word more or a word less than was needed to give elegance to his diction, explicitness to his meaning, completeness to his logic. He analyzed every argument of the Impeachment with consummate skill, those who dissented from his conclusions united with those who assented to them in praise of his masterly presentment of the President's defense.

"Judge Curtis declared that: 'when the Constitution speaks of treason, bribery, and other high crimes and misdemeanors, it refers to and includes only high criminal offences against the United States, made by some law of the United States existing when the acts complained of were done \* \* \* *Noscitur a sociis*. High crimes and misdemeanors! so high that they belong in this company with *treason* and *bribery*.'"

Judge Curtis' rules for conducting trial in criminal cases, are well worthy a careful study by young law students and attorneys who have just begun the practice of their profession. On this subject he says:

"Pay little attention to the good side of the case at first, that side will take care of itself, but be sure you

look well to the bad side—not forgetting to explore the strongest form of the proof, and knowing that an opportunity to prove even what is false may be used by your adversary, unless you have certain means to refute it.

“Never try to disprove what has not been proven, and supply thereby the missing link in the enemies’ chain of evidence.

“Never forget that an innocent person, with enemies, may be in a more dangerous condition than a guilty one with friends and influence.

“The pulse of the people beat nearest together through the columns of the press, and a few wicked papers may tell a jury much in half-accounts of an occurrence that will shade the whole story by it unawares.

“Persistent energy in the face of genius and eloquence will bear its fruit in due season if properly directed, but endless travel in the wrong direction will never reach the place of destination ; therefore, of all things, be safe in your theory and start out equipped for a trial of hardships.

“The best trial rule I can think of is for the advocate first to possess himself thoroughly of the facts of his case, and to believe in its justice; then to keep in mind in every step of its progress that the jury is composed of men representing the average common sense of the people, actuated by an honest desire to do impartial justice between the parties ; and so, in the light of this fact, to be able to see how every proposition or objection, piece of testimony, remark at the Bar, or observation from the Bench would be likely to affect such a body ; in other words, for the trial lawyer to imagine himself in the jury box, with their purposes and intelligence, and think how these things would influence him.”

The fame of Judge Curtis as a lawyer, ranks with that of Daniel Webster and Rufus Choate, only he is of more recent times. The late Justice Miller character-

ized him as the "first lawyer of America, of either the past or present age," and the eminent Justice is not alone in the opinion. It can be said fearlessly, that it will be many years, if indeed ever, America produces a lawyer superior to Benjamin R. Curtis in profound legal learning, and sound, strict legal discipline.

He closed his honorable life at Newport, Rhode Island, on the 15th day of September, 1874, in the sixty-fifth year of his age.







Henry White Davis

## HENRY WINTER DAVIS.

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THIS distinguished lawyer and statesman, one of the most brilliant lawyers and orators of his time, was born in Annapolis, Maryland, on the 16th of August, 1817. His father, the Reverend Henry Lyon Davis, presided over Saint John's Episcopal College, in Annapolis, at the time of his son's birth.

Young Henry's early education was received under his father's tutelage. He commenced his college course at Saint John's, but finished at Kenyon, where he was graduated in 1837. The year before his graduation, his father died, leaving some property in the shape of slaves, but he was so thoroughly imbued with the idea that slavery was wrong, that he refused to profit by any of the proceeds which they might bring by sale, and freed them as rapidly as the law of his State would permit.

For two years after graduation, he was employed as a tutor. In 1839, his aunt sent him to the University of Virginia, where he took a special higher course, and attended the law school of that celebrated institution. His father had been before his death deposed from Saint John's College on account of political differences, and this good aunt had taken full charge of her nephew.

In 1841, he was admitted to the Bar, and commenced the practice in Alexandria, Virginia. He very soon took a high rank as a lawyer, and his rise to distinction in his profession was rapid. The first case which brought him into notice as a great lawyer, was his defense of the Reverend H. V. D. Johns, on a charge made against him by

Bishop Whittingham, of Maryland, for a violation of the canons of the church. Mr. Davis remained in Alexandria for nine years, at the end of which time he removed to Baltimore, and immediately became known as a great lawyer. It was there that he appeared in the suit above referred to, and which placed him foremost at the Bar of that City. He was one of the most brilliant of orators, and this gift brought him into prominence in the political campaign of 1852, when General Winfield Scott was the Whig candidate for President of the United States. His eloquence was of such a nature that he was characterized as the "brilliant orator and controversialist of the Scott canvass."

Two years later, in 1854, his own remarkable and brilliant political career began. He was elected to Congress on the Whig ticket that fall, but almost immediately upon the organization of the American party, he affiliated himself with it. Its leaders were composed of Whigs in the South, who could not join their forces with the Democrats. Mr. Blaine, in his "Twenty Years of Congress," disposes of this party very summarily in the following language: "In the South, those Whigs who, though still unwilling to profess an anti-slavery creed, would not unite with the Democrats, were reorganized under the name of the American party, with Humphrey Marshall, Henry Winter Davis, Horace Maynard, and men of that class, for leaders. The party was founded on proscription of foreigners, and with special hostility to the Catholic Church. It had a fitful and feverish success, and in 1854-5, under the name of *Know-Nothings*, enrolled tens of thousands in secret lodges. But its creed was narrow; its principles were illiberal, and its methods of procedure boyish and undignified."

Mr. Davis voted for the Republican candidate for Speaker upon the organization of the House, in 1859, and thus, by his action, ended the dead-lock over the

contest. For this act, he brought down upon his head the indignation of many of his constituents, and also received the censure of the Legislature of the State of Maryland. He termed this censure a "decoration" in a speech on the floor of the House, in referring to the action of the Legislature. In this speech, which was delivered in committee of the whole, almost immediately after receiving the message of censure, he told its bearers to take back to their masters, what they had brought; for only to their masters, the people, would he reply. To his constituents, later he told that if he could not be allowed to use his own judgment in matters pertaining to what he considered for the best interest of the State, that they might send a slave to Congress, but they could not send him.

In the exciting Presidential campaign of 1860, Mr. Davis supported the Bell and Everett ticket, although he had been offered a position on the Lincoln ticket as Vice-President. When the Massachusetts troops were fired upon by the mob in Baltimore, Mr. Davis immediately published a card announcing himself as an "Unconditional Union" candidate for Congress. He was virtually alone in the brilliant canvass he made in his district, which included a portion of the city of Baltimore, and the eloquence of his speeches in that memorable campaign, are ringing yet in the ears of those who heard his uncompromising appeals of devotion to the Union. Abuse and vilification followed his canvass wherever he appeared, from those who were opposed to the Union, but notwithstanding all that he had to contend with in his brave fight, he received over 6,000 votes, yet lacked a majority.

A man with such legal and statesmanship qualities, could not, however, be kept down. In 1863, he was again sent back to Congress to represent the very constituency that had repudiated him two years before, but died before

his term expired, at the early age of forty-eight years.

Mr. Blaine has formed a correct estimate of this great man's abilities. Of him, in his "Twenty Years of Congress," he says: "He had not co-operated with the Republican party before the war, and had supported Mr. Bell for the Presidency in 1860. He had always been opposed to the Democratic party, and was, under all circumstances, a devoted friend to the Union, an arch-enemy to the Secessionists. Born a Southern man, he spoke for the South; for its duty to the Federal Government; for its best and highest destiny. To him, before all other men, is due the maintenance of loyalty in Maryland. His course was censured by the Democratic Legislature of his State in the winter preceding the Rebellion. He replied through an address to the voters of Maryland, which, for eloquence of expression, force and conclusiveness of reasoning, is entitled to rank in the political classics of America, as the address to the Electors of Bristol ranks in the political classics of England. As a debater in the House, Mr. Davis may well be cited as an exemplar. He had no boastful reliance upon intuition or inspiration, or the spur of the moment, though no man excelled him in *extempore* speech. He made elaborate preparation by the study of all public questions, and spoke from a full mind, with complete command of premise and conclusion. In all that pertained to the grace of oratory, he was unrivaled. He died at forty-eight. Had he been blessed with length of days, the friends who best knew his ability and his ambition, believed that he would have left the most brilliant name in the parliamentary annals of America."

Mr. Davis was one of the most earnest supporters of President Lincoln's administration, but was opposed to the assumption of extraordinary powers by the Executive, and was fierce in his denunciation of Congress, for not passing laws to effect what it wanted the Executive

to perform upon his own responsibility. He was one of the first to advise the enlistment of the Negroes in the army, and in this connection, said: "The best deed of emancipation is a musket on the shoulder."

He was from his earliest childhood opposed to slavery, having drawn from his own experiences as a youth. He said when he had arrived at manhood, in speaking on this subject: "My familiar association with the slaves, while a boy, gave me great insight into their feelings and views. They spoke with freedom before a boy, what they would have repressed before a man. They were far from indifferent to their condition; they felt wronged, and sighed for freedom. They were attached to my father, and loved me, yet they habitually spoke of the day when God would deliver them."

When he was ten years old, his father settled in Anne Arundel county, and here he delighted to spend his time with shotgun in hand, roaming through the fields and in the forest, caring but little for his studies, and giving very little promise of what he was to be in the years that were to come. On these occasions of his wanderings over the country, he was always attended by one of his father's slaves, and it was this intimate acquaintance with the despised race, that his great humane heart was turned in pity toward them, and that the seed was sown which made him detest the institution of slavery when he grew to manhood and became able to maintain their cause by his radiant eloquence. The mere politicians of Mr. Davis' day, regarded him as visionary and chimerical. He used frequently to say that "he who compromised a moral principle was a scoundrel, but he who would not compromise a political measure was a fool."

He possessed a magnificent library, was a great reader, and had a remarkably retentive memory, and being gifted with a naturally brilliant mind, found more

pleasure in the companionship of his books and his own thoughts, than in the pleasures of society. To his host of warm personal friends he was a genial soul, though to the world at large he seemed, and perhaps was cold, stern and dictatorial. His chief characteristics were courage and fortitude. When his conscience told him he was in the right, he adhered with a devotion from which nothing could turn him.

As Mr. Blaine says in his "Twenty Years of Congress," the "American party had a fitful and feverish success," but if the war had not broken out at the time it did, and Mr. Davis had lived, its principles might have been broadened, and greater success might have attended it. Mr. Davis gave the party all the support of his ardent nature to the last; his greatest effort in its behalf, was his speech delivered in the House of Representatives, on the 6th day of January, 1857, when at the climax of his brilliant career. The following extracts are presented:

"\* \* \* Between these two stand the firm ranks of the American party, thinned by desertions, but still unshaken. To them the eye of the country turns in hope. The gentleman from Georgia saluted the Northern Democrats with the title of heroes, who swam vigorously down the current. The men of the American party faced in each section, the sectional madness. They would cry neither Free- nor Slave-Kansas, but proposed a safe administration of the laws, before which every right would find protection. Their voice was drowned amid the din of factions. The men of the North would have no moderation, and they have paid the penalty. The Party should have elected a majority of this House. Had they of the North held fast to the great American principle of silence on the Negro question, and, firmly refusing to join either agitation, stood by the American candidate, they would not now be writhing, crushed be-

neath an utter overthrow. If they would now destroy the Democrats, they can do it only by returning to the American party. By it alone can a party be created strong at the South as well as at the North. To it alone belongs a principle accepted wherever the American name is heard—the same at the North as at the South, on the Atlantic or the Pacific shore. It alone is free from sectional affiliations at either end of the Union which would cripple it at the other. Its principle is silence, peace and compromise. It abides by the existing law. It allows no agitation. It maintains the present condition of affairs. It asks no change in any territory, and it will countenance no agitation for the aggrandizement of either section. Though thousands fell off in the day of trial—allured by ambition, or terrified by fear at the North and at the South, carried away by the torrent of fanaticism in one part of the Union, or driven by the fierce onset of the Democrats in another, who shook Southern institutions by the violence of their attack, and half waked the sleeping Negro by painting the Republican as his liberator, still a million of men, on the great day, in the face of both factions, heroically refused to bow the knee to either Baal. They knew the necessities of the times, and they set the example of sacrifice, that others might profit by it. They now stand the hope of the Nation, around whose firm ranks the shattered elements of the great majority may rally and vindicate the right of the majority to rule, and of the native of the land to make the law of the land.

“The High mission of the American party is to restore the influence of the interests of the people in the conduct of affairs; to exclude appeals to foreign birth or religious feeling as elements of power in politics; to silence the voice of sectional strife, not by joining either section, but by recalling the people from a profitless and maddening controversy which aids no interest, and

shakes the foundation not only of the common industry of the people, but of the Republic itself; to lay a storm amid whose fury no voice can be heard in behalf of the industrial interests of the country; no eye can watch and guard the foreign policy of the Government, till our ears may be opened by the crash of foreign war, waged for the purposes of political and party ambition, in the name, but not by the authority nor for the interests of the American people."

Henry Winter Davis closed his brilliant career while still a member of Congress, in the year 1865. Thus perished in the prime of life one of the most brilliant Americans of his time.







Samuel M. Deane

## CHAUNCEY MITCHELL DEPEW.

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AS the family indicates, Mr. Depew's ancestors were French. He comes of that dauntless Huguenot stock whose courage and contempt of danger adorns the pages of religious history, and whose emigration to America, upon the revocation of the "Edict of Nantes," marks an important epoch in the inauguration of our civilization. On his mother's side his lineage may be traced to a no less distinguished source. She was Miss Martha Mitchell, of the celebrated Roger Sherman stock, than which there is no better blood in all New England. Mr. Depew's progenitors on his father's side settled on the Hudson, in New York over two hundred years ago. They were the pioneers of that lovely region, which, it is conceded rivals anything in picturesqueness of like character in Europe. One of the original homesteads of his thrifty ancestors, the birthplace of Mr. Depew, has remained in possession of the family through all the years of mutation and restlessness, characteristic of our peculiar civilization. To this charmed spot made dear by so many decades of cherished memories, Mr. Depew often lovingly alludes. He was born at Peekskill, New York, on the 3d day of April, 1834, which is so romantically situated among the hills on the beautiful river named for the celebrated navigator, Henry Hudson. Here in the quiet of the semi-pastoral region Mr. Depew began his studies, and prepared himself for the demands of a college course. He is remembered by the oldest inhabitants of the place as a remarkably bright youth; one

who was sedate in bearing, and always courteous in manner; as very fond of his books and early developing those characteristics which have made him a great man. That he was a student of rare and persistent industry, is confirmed by the fact that he was graduated by Yale College at the age of eighteen with the highest honors in the gift of that famous institution.

The year 1856, in which young Depew finished his education, saw the inauguration of the Republican party with General John C. Fremont as its initial standard-bearer. To the perpetuity of that afterward great conservator of the Nation's integrity, Mr. Depew cast his first vote. Though defeated in its inception, he attached himself to its fortunes, believing in the outcome of its principles, and all through its subsequent triumphs he has been its ardent supporter, devoting his talents and eloquence to the promulgation of its tenets.

Born and reared a Democrat, but well constituted by his liberal education and power of discrimination to decide upon what course to pursue, at the beginning of the crisis which was rapidly culminating, he acted promptly. He could find nothing in the ephemeral American party, or *Know-Nothingism* as its creed was called, with its decidedly un-American narrowness with which he could affiliate. So there was no place for a man of his liberal nature in such a congregation, for it lacked elements of vitality. The old Whig party had become a thing of the past, he must therefore choose between the Democratic party, and the Republican party which was just donning its swaddling-clothes. He had the political prevision to see that it was to be the inspiration of the century in the guidance of the Nation to prosperity and unity, therefore, his choice was soon made, and he took a prominent part in the discussion of the grave questions forced upon the people by the action of the dominant party in the National councils.

Returning to his ancestral home from Yale crowned with the laurels of collegiate success, he at once entered the office of Honorable William Nelson, where he became a devoted student of the law. In 1856, two years later, he was admitted to the practice. Then, too, he received his first political preferment by having been elected a delegate to the Republican State Convention, of New York, as a reward for the indefatigable energy he had displayed in support of the policy of the now dominant party.

At the commencement of his practice it was demonstrated beyond question, that because of his fine judicial mind he was eminently qualified to attain prominence at the Bar. He was also equally well versed in all the intricacies of politics, so that for a time, at least, the career he had marked out for himself, strict attention to the domain of law was held in abeyance, although the political preferment which came to him was entirely unsought. His numerous friends persuaded him to take an active part in the discussion of the leading questions, affecting the solidity of the Nation. These were in a chaotic state, but the people were deeply interested, and he was impressed with the idea that he owed this duty to the country and the struggling young party, consequently he took the stump in all the great campaigns that marked the early years of the Civil War. As has been very happily stated in a short sketch of his course during those troublous times, which appeared in a small *brochure* some years ago: "He had inherited from his sturdy Huguenot ancestors a passionate love of liberty, a hatred of oppression in every form, and a courage to champion the cause which his judgment and conscience accepted as just. He had been reared in an atmosphere that was charged with the spirit which animated the men who had won American Independence; his earliest political studies had led him to regard the doctrine of nullification as a

heresy, as odious in its motive and character as it was destructive in its tendency; and when he stepped into the political arena, he did so with a full conscientiousness of his obligations, and well equipped for the struggle in which his young valor and strength were soon to be tried."

When Abraham Lincoln received the nomination for the Presidency, young Depew took the stump, and during that memorable campaign made many speeches, which were received with enthusiasm by immense audiences in all portions of New York. He was never for a moment tedious in any of his public talks; he was a born orator, who, without any effort, but by natural genius possessed the rare power of entertaining a vast assemblage and keeping it interested to the last word of his discourse. He was logical, clear and eloquent; interspersing his masterly arguments with a humor that was irresistible. His efforts in that exciting canvass were of inestimable worth to the party, and to him a share was due for the results at the polls.

In that eventful year Mr. Depew was nominated for the Assembly, and although the Democrats were in an almost irretrievable ascendancy, he was elected by a majority of 259. Bringing with him all those talents which had distinguished him on the stump, his legislative career was so satisfactory that he was returned the next year, and his name was prominently connected with the probabilities of the Speakership. As Chairman of the Ways and Means Committee, he was especially effective, and the honor of that position, the most important committee in the House, has rarely been given in charge of so young a legislator. In a biography of the Members of that session, the following is said in relation to Mr. Depew:

"Mr. Depew is one of the ablest members of the Assembly, and bids fair to become a prominent man in

the State. He possesses decided ability, to which may be added a good degree of industry, energy and perseverance. Although looking much older, he is scarcely twenty-nine years of age; but his bearing and business habits partake more of the character of middle age or even mature years, than of the impetuosity and recklessness of youth. He seems to have reached manhood earlier than usually falls to the lot of mortals; or, if not fully matured, and he improves as rapidly for a few years to come as in the past, he may be set down as possessing extraordinary talents. He is, in fact, a venerable young man, a proper associate and companion of men of the preceding generation. His vigor of intellect, too, is in accordance with his appearance, possessing the strength, solidity, and ripeness of middle age."

Horatio Seymour was elected Governor of New York, and the Republicans lost their prestige in the great Commonwealth, and the following year Mr. Depew was nominated for Secretary of State as the most available man to reclaim it. He took the stump at the inception of the canvass, and his popularity was so great, coupled with the brilliancy and effectiveness of his oratory, that he was elected by a majority exceeding 30,000. In that memorable campaign Mr. Depew's powers of endurance were put to the severest test, but he proved equal to the task. He spoke every day for nearly two months, and came out of the terrible ordeal almost as fresh as when he began.

When President Andrew Johnson became the Chief Magistrate of the Nation, recognizing Mr. Depew's abilities and the service he had rendered the party, he determined to make him Collector of the Port of New York, but as Senator Morgan had refused to sustain the President in some measures, the commission was withheld. Mr. Depew was then offered the position of Minister to Japan, but he declined to accept the proffered honor.

He had made up his mind to retire from the arena of politics, in order to devote himself to the practice of his profession, which he thought he had too long neglected. About this time he formed a warm friendship with the eldest son of Commodore Vanderbilt, and he had also attracted the attention of the Commodore to his extraordinary talents and accomplishments. The great magnates appointed Mr. Depew their attorney for the New York & Harlem Railroad Company, and when three years later, it, with the New York Central was organized as the New York Central & Hudson River Railroad Company, Mr. Depew was promoted to the attorneyship of the consolidated lines, and also elected a director. Very shortly afterward the whole Vanderbilt system, which had grown enormously by further consolidations, was transferred to the charge of Mr. Depew in relation to all legal matters, and he assumed control of the law department as General Solicitor.

In 1872, Mr. Depew allowed the use of his name as a candidate for the office of Lieutenant-Governor, on the "Greeley Ticket," but of course went down to defeat with the rest of that party.

In May preceding the assassination of the lamented President Garfield, Roscoe Conkling, the distinguished Senator from New York, and his colleague, Thomas C. Platt, resigned their seats in the United States Senate. The action of Mr. Conkling, who had been for such a length of time an acknowledged leader in that great deliberative body, had a bewildering effect upon the party all over the country. The Governor of New York notified the Legislature officially of the resignation of both of the State's Senators, and on the 31st of May the two Houses of the Assembly balloted for their successors. Mr. Depew, only after the most earnest solicitation, reluctantly assented to enter the lists. He was looked upon as one of the few men worthy to take the

place of the great Conkling, and on the first ballot, among eighteen candidates, Mr. Depew stood second. The Republicans held no caucus, but went into joint session. On the nineteenth ballot Mr. Depew required only ten votes to elect him, and on the thirty-fourth he stood in the same numerical position. When the morning arrived on which Guiteau fired the deadly bullet that sent President Garfield into eternity, the Legislature adjourned the moment the terrible news from Washington was officially announced. When it re-assembled, it was determined the sad emergency required that the prolonged contest for the election of United States Senators, should be terminated as speedily as possible, with due regard to decency. Mr. Depew was the first of the candidates to speak earnestly upon the importance of the subject. When, at the casting of the fortieth ballot, his strength had not diminished in the least, he withdrew his name accompanied by a letter, in which he said: "Neither the State nor the party can afford to have New York unrepresented in the National Councils. A great crime has plunged the Nation into sorrow, and in the midst of the prayers and the tears of the whole people, supplicating for the recovery, and weeping over the wound of the President, this partisan strife should cease."

In 1884, the Republicans of all factions, a majority of two-thirds of the whole Legislature, offered the Senatorship to Mr. Depew, but in consequence of his many professional trusts, and immense business he was compelled to respectfully decline the honor. In that same year William H. Vanderbilt retired from the Presidency of the New York Central, Mr. James H. Rutter succeeding him, and Mr. Depew was elevated to the Vice-Presidency. Three years afterward Mr. Rutter died, and Mr. Depew was elected to fill the vacancy. This position Mr. Depew holds to-day; the head of one of the greatest railroad systems in the world.

As an orator Mr. Depew stands without a superior; as an after-dinner speaker he is without a peer. "Off-hand Sketches of Prominent New Yorkers," published a few years ago, thus speaks of Mr. Depew: "The characteristics of Mr. Depew's speaking is that it does not depend upon verbal jokes nor funny stories for its success. It is the true humor which grows naturally out of the subject, and is based upon a substratum of common sense. To adopt it, therefore, for the Bar, or the political rostrum, or the legislative committee, Mr. Depew has only to restrain the humor a little and push the common sense to the front. But whether at the social board, or before the courts, or upon the stump, or in the Legislature, his grave, earnest, serious manner never varies. He is as seemingly unconscious of what he says as poor Artemus Ward used to be, and he has the solemnity without the tedious slowness of Mark Twain. For the felicity of his phrases, the force of his expressions, the calm, even, steady flow of his language, he has seldom been equaled and never surpassed. While he is speaking without the slightest apparent effort, you wonder at the copiousness of his vocabulary; but he is as terse as he is fluent. His oratory is like a broad, deep, mighty river, upon which tiny pleasure boats of wit and humor can dance in the sunshine, but which is also capable of sustaining and transporting the heavily weighted argosies of law and politics."

Mr. Depew is distinguished for the inflexible integrity of his character, his generous sympathies toward his fellow men, and perfect social nature. These are the dominant attributes which make him an idol wherever he is personally in contact with men; and these are devoted to him as they are to no one else. The story of his private charities would fill a volume, for he is never unmindful of the unfortunate.

The number of societies and associations to which

Mr. Depew belongs makes an appalling list. Beside being President of the New York Central & Hudson River Railroad Company, he is also President of the West Shore Railroad. He is a Director of the Chicago & Northwestern; the Michigan Central; Cleveland, Columbus, Cincinnati & Indianapolis; New York, Chicago & St. Louis; Chicago, Saint Paul, Minneapolis & Omaha; and the New York, New Haven & Hartford Railroad Companies. He is one of the Regents of the University of the State of New York; President of the well-known and influential Union Club, of New York City; he has been twice elected to that honorable position. He is now, and has been for years, the popular leader and President of the Yale *Alumni* Association. He is an active member of the famous "Skull-and-Bones" of Yale College. He is a member of the Saint Nicholas Society, and the Holland Society, of New York; also of the Huguenot Society, of America. He is a member of the New York Chamber of Commerce; a Director of the Union Trust Company, of New York; the Western Union Telegraph Company; the Equitable Life Assurance Society, and Saint Luke's Hospital.

On the 28th of June, 1887, his *alma mater* very properly conferred upon him the degree of LL.D.

Mr. Depew's name is a household word in every home in the United States where there are periodicals and newspapers to be found upon the table. He has been, and is frequently talked about in connection with the greatest gift in the political power of the people.

That he has not appeared prominently in the highest official positions of the country, is clearly his own fault. He has refused place more than once as has been shown. Should he ever change his mind, he will bring to any position that he may be called to occupy, the essentials of a real interest in the welfare of his constituency, whether it be limited to the area of a State

or is National, for he is beyond the idea of office to aggrandize himself.

It goes without saying, that perhaps there is no man in the United States who is so eagerly sought to grace the tables of those who give great dinners; to speak for this charity or that, to deliver a lecture here or there. Consequently the invitations he receives, the private correspondence that must come to him daily is enormous. It is said on most excellent authority that his invitations alone average often many hundred a week. All these by the *dictum* of society must be acknowledged, and all this great burden is taken from his broad shoulders by his devoted and brilliant wife.

Mrs. Depew is the confidential secretary of her busy husband; she takes scrupulous care of all his personal mail, which is very large, and responds to the thousands of invitations that are constantly coming to him. Mrs. Depew is as remarkable as her gifted husband in many ways, and is fitted by birth, education and executive ability, to preside over the home of such a man. Mrs. Depew is the daughter of one of the oldest Huguenot families; her father, a well known New York merchant, was the late William Hegeman. Her marriage to Mr. Depew occurred in New York, on the 9th of November, twenty years ago. They have one child, a son, now about twelve years old, Chauncey, Junior, whose education, in connection with two of their orphan nieces, Mrs. Depew personally superintends. Mrs. Depew is a natural linguist; French, German and Italian are spoken in the family at intervals of each day, and these bright children take their share in the conversation conducted in these languages. The great happiness in the Depew household is indescribable.





*John F. Dillon.*





## JOHN FORREST DILLON.

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THIS truly eminent lawyer, jurist and author was born on Christmas day, 1831, at Northampton, Montgomery county, New York. He resided there with his parents for seven years, who then removed to Davenport, Iowa, at which place Mr. Dillon remained until 1879, a period of forty-one years. From here he removed to New York City, where he has since resided.

Like all men who have risen to eminence, in his boyhood he evinced an unconquerable love for the acquirement of knowledge, and that persistent industry which has always been such a marked characteristic of his useful life. His first selection of a profession was that of medicine, which he commenced to study at the early age of seventeen, and soon afterward was graduated, and recieved his diploma. He found, however, that the practice of medicine was not suited to his tastes, and soon abandoned it for the law. He read earnestly, grasping the theory of the law with his naturally judicial mind, and when he reached his majority, was admitted to the Bar. This is one of those instances where the court sanctions admission at an early age, although the history of the Bar in the United States records some, who were permitted to enter the practice before attaining majority.

Shortly after he was admitted to the practice he became a partner in the law firm of Cook & Dillon, afterward Cook, Dillon & Lindley, which grew to be one of the leading firms in the State of Iowa. The same year

he was admitted to the Bar, Mr. Dillon was elected State Prosecuting Attorney for the county of Scott, which office he filled with distinction. He soon evinced the characteristics of a great lawyer, and the manner in which he performed the responsible duties of his office, was a source of much gratification to his friends. Six years later he was nominated by the Republican party for the office of Judge of the Seventh Judicial District of Iowa, and was elected by a vote which ran far ahead of the ticket, a pleasant compliment to the candidate's popularity among the people. He so impartially conducted the administration of his office, and developed those qualities requisite in a judge to such a degree, that before his term expired, he was requested by the whole Bar, without distinction of party, to continue in the position which he had so ably adorned, and was re-elected without opposition.

Further judicial honors were still in store for him. In 1863, he was promoted to the Supreme Bench of the State for a term of six years, at the expiration of which he was re-elected, and became the Court's Chief Justice. He was again elected to serve a second term in that exalted position, but before he had qualified, was nominated by President Grant and confirmed by the United States Senate, as Circuit Judge for the Eighth Judicial Circuit, covering an immense geographical area, comprising the States of Minnesota, Iowa, Nebraska, Missouri, Kansas and Arkansas, to which was shortly added Colorado.

Referring to this vast extent of country embraced within his jurisdiction as Federal Circuit Judge, in an address delivered before the Bar Association of South Carolina in 1883, he said:

"When I was a Federal Circuit Judge in a Circuit which embraced seven states, and which extended on the north from the international boundary line between the

United States and the Dominion of Canada, to Louisiana on the south, and from the Mississippi on the east to the Rocky Mountains on the west, I habitually traveled more than 10,000 miles every year, and my successor does the same."

In 1879, Judge Dillon received from the Law School of Columbia College in New York City, an invitation to take the chair of Real Estate and Equity Jurisprudence, to accept which, on the 26th of May of that year, he tendered his resignation as United States Circuit Judge to the President, giving as his reason for retiring from the Bench, not that he was dissatisfied with the duties of the office, but because in the position to which he had been chosen, the labors were lighter, the compensation greater, "and in the leisure which it affords, as well as in the duties it requires, offers opportunities for study and advancement in the law, that may well satisfy the highest professional ambition."

At the same time that Columbia College called him to her service, the Great Union Pacific Railway Company tendered him the position of General Counsel. Judge Dillon very naturally felt that his duty to his family, and his own interests demanded that he should accept these places, consequently in September of that year he removed to New York City, and assumed his new duties. Genuine regret and a sense of personal loss was manifested by the Bench and Bar, as well as the host of warm friends his long residence had drawn around him in the West, when the news was confirmed that this upright, able and intelligent Judge intended to sever his connection with the Bench he had so many years adorned. The Bar of the circuit in several states at once met to take suitable measures expressive of their deep sense of the great loss to the legal profession by Judge Dillon's voluntary retirement, and many addresses were made highly complimentary. The

address of the Bar of St. Louis, contained this flattering testimonial:

“To you as an author, the profession recognizes its indebtedness for a work which is a permanent contribution to legal literature, and is accepted as a standard and as an authority wherever the English language is spoken. To you as a Judge in high station for nearly twenty-one continuous years, we bear testimony to a career distinguished by uniform dignity and courtesy, by marked ability, great industry and perfect integrity. Questions of wide variety, and of the gravest importance, have engaged your attention and found their solution in judicial decisions marked by clearness of statement, vigor of thought and profundity of learning. To the discharge of onerous duties, you have brought a mind gifted with sound judgment, fortified by varied experience and enriched by wide research.”

This was the unanimous expression of appreciation of the value of his services on the Bench, and his sterling integrity. It was shared by all with whom he came in contact, and no man ever broke off old connections for a new field of labor, in all the history of the great West, who left behind him more sincere admirers for his manliness, fearlessness, honesty of purpose, kindness of heart and great social qualities. In all the long course of his judicial career he ever stood erect in the light of criticism and public inquiry, confining himself closely to his profession, rarely mingling in public controversies. In his social life he is one of the most genial men imaginable, and his companionship is sought by all with whom he comes in contact.

Judge Dillon remained with Columbia College, as professor in its Law School for three years, but the comparative leisure which his position as Law Lecturer permitted was far from agreeable or congenial to a man of his positive action and love for labor in the profession,

and recognizing the fact that he was unable to give adequate attention to the duties required in that vocation, and at the same time do justice to the pressing demands of large outside interests which were continually increasing, it became necessary in obedience to that principle of fairness which has ever characterized his professional career, that he resign his post of instructor in the College, and devote his entire attention to his immense private practice.

While on the Supreme Bench of Iowa, Judge Dillon published his first legal work, "A Digest of the Iowa Reports." While Circuit Judge, he founded, and for one year edited the *Central Law Journal*, then the only law periodical published in the Mississippi valley, and in addition to this, edited and published five volumes of Circuit Court Reports, from 1871 to 1880, and each winter delivered a course of lectures to the students of the Law Department of the Iowa State University, on Medical Jurisprudence.

He is also author of a treatise "On the Removal of Causes From State to Federal Courts," published in 1875, and when he was Judge of the Supreme Court of Iowa, he diligently devoted himself to the collection of material for a work on "Municipal Corporations." As soon as the work made its appearance it was universally admitted to be one of those law publications possessing a value that time cannot destroy. It is, as an eminent Judge has styled it, "a legal classic." Not only to the professional man is the work of incalculable value, but to the layman and student of history as well. The introduction to the book is an essay replete with historical information, peculiarly valuable to Americans, and comparable in its style to anything in the way of a preface that has ever been written, ranking in this particular with the famous introductions the greatest authors have produced. To write an introduction or a pre-

face like the one referred to, requires a genius rarely bestowed, such as Macauley, Robertson or Motley.

This masterpiece of legal literature was commenced while Judge Dillon was on the Supreme Bench of Iowa. He had contracted with his publisher to issue the work, then only formulated in his mind, and upon his elevation to the Federal Bench by President Grant found it necessary to continue its preparation, despite the labor and almost continual absence the duties of his immense circuit involved. During his leisure for the ensuing two years, after his accession to the Bench, he devoted himself assiduously to the completion of the laborious undertaking, without other assistance than his patient and amiable wife, whose name on the title page is thus lovingly and honorably linked with his own, in this immortal and authoritative treatise on such an important branch of our jurisprudence.

"Dillon's Municipal Corporations" has already passed through four editions, the last completed only during the summer of 1890. The edition will be repeated a number of times before the demand ceases. The special value of this work is the authoritative character with which the eminence of the distinguished writer stamps it. He had been a prominent judge in active service for many years, and was in the prime period of his great abilities before the task was undertaken, and a Judge of the United States Circuit Court when it was completed. Aside from its incomparable value as an authority on the subject of which it treats, its author's inimitable style makes it a literary gem, alike interesting to the student of English composition.

In all his literary efforts, Judge Dillon's power is characterized by clear, forcible and exact statement. This feature is essential to the practicing lawyer as well as the student. When studying his works it is hardly possible to mistake his meaning. While his English is

pure, clear and forcible, it possesses a polished precision and elegance, which lends additional charm.

In May 1875, after years of unremitting toil, Judge Dillon made a tour of Europe for the purpose of a rest he so greatly needed, for the recuperation of his health, which time and hard labor had impaired. While abroad he visited many countries, and attended, officially, the third annual conference of the "Association for the Reform and Codification of the Law of Nations," which met at The Hague, Holland, in September of that year, and of which Association he was a member. In 1883, and again in 1889, he visited Europe, and in 1884 was honored by an election as a member of "l'Institut de Droit International."

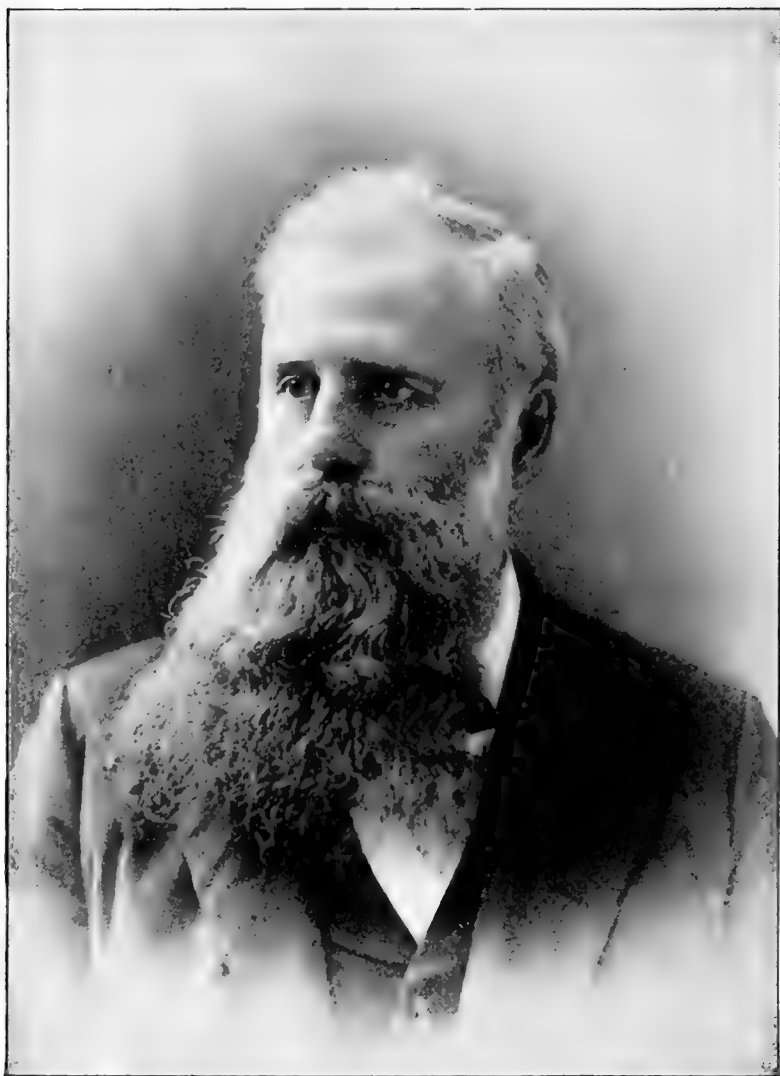
Upon his return from Europe in 1875, he was invited by the Iowa State Bar Association, to deliver the annual address. The invitation was cheerfully accepted, and Judge Dillon chose for his subject, "The Inns of Court and Westminster Hall." The address was not only well received by all who had the pleasure of listening to it, but went through several editions almost as soon as it was published. In 1884, the American Bar Association held its annual session at Saratoga Springs, New York. On this occasion Judge Dillon delivered the address and his subject was "American Institutions and Laws." In 1885, the Bar Association of South Carolina invited him to deliver the annual address before that body; it was the first annual meeting of the Association, and it may be regarded as a compliment that one was selected outside of the state to deliver the initial address before it. His subject was the "Uncertainty in our Laws." It was received by those present with enthusiasm and the press of the state was loud in its encomiums on the ability of the orator, and the wisdom and beauty of his oration. In 1886, he was again invited by the American Bar Association to address it, and in the fol-

lowing year he delivered the address before the Alabama Bar Association. In July 1890, the Ohio Bar Association met in annual session at Put-in-Bay, and Judge Dillon was invited to deliver the address. On this occasion he selected for his subject: "Bentham and his School of Jurisprudence." This masterly paper evolves Judge Dillon's own ideas in relation to codification, a matter to which he has devoted a great deal of attention, because of its vast importance and resulting benefits if carried to legitimate ends.

Judge Dillon was married in 1853, to the daughter of Honorable Hiram Price, of Davenport, Iowa. He has four children, two sons and two daughters. The eldest son, Hiram Price Dillon was graduated at the Law School of the University of Iowa, was admitted to the Davenport Bar, and is now a successful lawyer in Topeka, Kansas. His younger son, John M. Dillon, resides with his father in New York City and was recently graduated at the Columbia College Law School.

Judge Dillon's reputation is National and he enjoys a popularity second to no one in the profession. He has a host of warm friends, and his society is courted. He is high-minded, generous, gentle and unassuming, and beloved by all who have the honor of his friendship. He is truly a noble character and representative American. He is still in the prime of his vigor, and his career is radiant with the achievements of the past, and the future promises for him a brilliancy commensurate with the years of his life.





## JOSEPH N. DOLPH.

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**M**R. DOLPH, the eldest of a family of five children, was born on the 19th of October, 1835, near the village of Watkins, New York. His father, Chester Valentine Dolph, and his mother, Eliza Vanderbilt Dolph, lived on a farm, where Joseph first saw the light, and where he lived with his parents until he arrived at the age of sixteen. He attended the little district school of the neighborhood until he was old enough and strong enough to help work on the farm, very early developing a love for reading and devouring with avidity the limited number of books obtainable in the vicinity of his home. He is remembered by the old settlers as a very studious, thoughtful boy, who devoted less time to play and more to books than is generally the case with children at that period of life.

When arrived at the age of sixteen he left the farm to become a lock-tender on the Chemung Canal near the town of Havana, New York, where, for two seasons, he was thus employed; he did a man's work and lived in a small cabin by himself at the head of the lock. He was a slenderly built boy and really appeared much younger than sixteen. Occasionally some of the rough characters with which his vocation necessarily brought him in contact, attempted to impose upon young Dolph, but they soon became convinced that though he was a boy in years and stature, he possessed a spirit that would brook no interference with his personal rights or defiance of his authority in his charge of the lock, and these bullies

left him severely alone. He gained a reputation all along the line of the canal for his conflicts and controversies, many of which, he claims existed only in the minds of his friends. He was known as "The Boy Lock-Tender" and it is true that the two years he occupied that position were filled with exciting incidents, such as rarely fall to the lot of the average boy. Once he narrowly escaped drowning by having fallen into the lock when it was filled with floating ice as a boat was passing out. On another occasion a little girl, not more than five or six years old, while running across the waste weir of the lock, stumbled, fell in, and was carried swiftly down the wier into the canal under a bulk-head of timber. Young Dolph, who had long since become an expert swimmer, immediately plunged in and after several abortive attempt, succeeded in catching hold of a braid of the child's hair, as she was being whirled into an eddy formed by the rush of water from the bottom of the canal. He brought her to the surface and restoring her to consciousness, carried her to her mother, who lived near by.

While living alone in his solitary cabin, at the head of the lock, he persistently continued his studies without the aid of a teacher, and there in his isolation developed that self-reliance and resolution which are his strong personal characteristics. At the expiration of two years of hard work at the lock, young Dolph, who was now eighteen, taught school as a means of perfecting his education, and preparing himself for the legal profession. He was undecided for some time before he made a choice of the law, having many misgivings as to his fitness for its exacting demands, but wisely made up his mind and entered the office of Honorable Jeremiah McGuire, at Havana, New York, who was then one of the ablest lawyers in the district.

Mr. Dolph was admitted to the Bar at Binghampton,

New York, November 1861, and commenced the practice in Schuyler county, remaining there until the ensuing spring.

Within two months after he entered Mr. McGuire's office, an incident occurred which gave him more confidence in his own powers and assisted in divesting him of his great diffidence. A legal proposition was under discussion by the older students in the office and with them young Dolph disagreed. While the question was up Mr. McGuire entered the place and was immediately appealed to for a decision, and decided against Mr. Dolph. A week later Mr. McGuire had occasion to enter the apartment of the students and found them again discussing the same vexed legal question. He then said, "I have been thinking over that proposition since I saw you, and Joseph is right." From that time it was no unusual occurrence for Mr. McGuire to submit to Mr. Dolph complicated problems in the law to be looked up, and not infrequently read to him his elaborate briefs, inviting his criticisms, and on more than one occasion, adopted the suggestions proposed by Mr. Dolph.

When he was a mere boy he was fortunate in getting hold of the published accounts in the *New York Tribune* of General John C. Fremont's Military Expedition to the Pacific coast; Dr. Elijah White's account of Missionary Life in Oregon; and Washington Irving's *Astoria*, which determined him to make that region his home.

In 1861-2, Congress made an appropriation to provide a military escort for the emigrant's crossing the great plains to far-off Oregon. The country through which they were compelled to pass was infested with bands of guerillas and Indians. The savages, it was believed, were incited to hostility by the enemies of the General Government. Captain Medoram Crawford, a pioneer of Oregon, who had originally emigrated there

from Havana, New York, Mr. Dolph's home, was given command of the escort, and Mr. Dolph meeting him while making a visit to his native town, determined to avail himself of the opportunity to carry out the cherished desires of his youth. He, with his brother, enlisted in Captain Crawford's company, known as the "Oregon Escort," and with it crossed the plains, Mr. Dolph acting as Orderly Sergeant. He arrived in Portland on the 31st of October of the same year, with but ten dollars in his pocket, but full of grit and hope for his future. His journey across the plains was full of adventure and there was enough of romance and deprivation to further strongly develop the leading traits of Mr. Dolph's character. The Company was organized at Omaha, then a little struggling village without much promise for the future it has since attained.

The party followed the Platte river westward for a distance of more than two hundred miles through a wilderness since converted into a prosperous country with its cultivated farms, thriving villages and substantial towns. Over the whole vast expanse the savage tribes roamed at will with their congeners, the buffalo and antelope in mighty herds, long since scattered like chaff before the march of civilization. An account of the incidents of that memorable journey, in which young Dolph took part, and in which he showed great courage accompanied with coolness and discretion, in moments of personal danger, if detailed in all the exciting events would read like a romance, to those who have never experienced the incidents that invariably marked a journey across the "Great American Desert." His natural qualities as a leader were often brought into requisition, and when any specially hazardous duty was necessary, he was invariably selected, and the results accomplished by him always justified the selection.

The next season Captain Crawford was again de-

tailed to go east and hold himself in readiness to escort another party to Oregon. He urged Mr. Dolph to accompany him, offering him every inducement to go back, which most young men would have accepted greedily, but he could not persuade the ambitious young lawyer, who had determined to make a mark for himself in his chosen profession to abandon his purpose, nor temporarily turn aside from the plans he had laid out.

Settling in Portland he at once entered into a large and lucrative practice, and his rise was uninterrupted and phenomenal. In less than twenty years from his arrival in the State he was elected by the Legislature to represent the State in the United States Senate, but had long before reached the head of the legal profession.

In 1863, he formed a co-partnership with Honorable John H. Mitchell, who had preceded him to Oregon: This alliance continued until Mr. Mitchell was sent to the United States Senate, nine years later.

In October, 1864, and during his absence from Portland, without his knowledge he was elected City Attorney, and filled that responsible position with great credit to himself and honor to the position. He performed the duties of the office with such marked ability and satisfaction, that without any solicitation, his salary was doubled. During his term he compiled a revision of the city ordinances, prepared important amendments to the charter, providing for the opening and improvement of streets, and drafted the ordinance necessary to carry its provisions into effect, all of which have ever since been followed.

Upon the recommendation of Honorable M. P. Deady, Judge of the United States District Court of Oregon, and Senator Nesmith, he was appointed by President Lincoln, in 1865, United States District Attorney for the district of Oregon, which position he held until September, of the following year when he resigned to take his seat as State Senator from Multnomah county.

Mitchell & Dolph, from the first had an extensive practice. They were the attorneys for the Oregon & Central, and the Oregon & California Railroad Companies and other corporations, and for Ben. Holliday, who was then engaged in operating a line of steamers from Portland to San Francisco, and in constructing the Oregon & California Railroad.

When Mr. Mitchell was elected to the United States Senate, he retired from the firm and Mr. Dolph was left alone, but immediately organized a new copartnership, composed of himself, Judge E. C. Bronaugh, Honorable Joseph Simon and C. A. Dolph, who after arriving in Oregon had read law with his brother Joseph, and was admitted to the Bar. The new firm continued to increase in importance and the magnitude of its business, and remained intact until Mr. Dolph's retirement upon his election to the United States Senate in 1883.

In 1875, Mr. Henry Villard, the brilliant financier, obtained control of the Oregon & California Railroad Company, and the Oregon Steamship Company, for the German bondholders, and retained Mr. Dolph as counsel for both corporations. When three years later Mr. Villard acquired the Oregon Steam Navigation Company, and commenced his operations for the development of the Northwest, he retained Mr. Dolph as his counsel, for the Oregon Railway & Navigation Company, the Oregon Improvement Company, the Oregon Transcontinental Company and numerous other minor corporations organized to carry out his plans. At the time of his election to the United States Senate, Mr. Dolph was the president of some of these corporations, vice-president of others and a director in all. Few men have had greater responsibility upon them than Mr. Dolph during the later years of his practice in Oregon, and none could have acquitted himself with more credit and satisfaction to his clients.

Senator Dolph has been professionally employed in many important cases and has met with unusual success as a lawyer. One of the most important legal services of his life, and one to which he especially refers with pride, was volunteered and performed without expectation of reward. He was at the State house in Salem, the capital of the State, at the time the Electoral College met after the Presidential election of 1876, when the Governor of the State refused to issue a certificate of election to Dr. Watts, one of the Republican candidates for elector, on the ground that he was disqualified for the position and instead issued it to Cronin, one of the Democratic candidates, although the returns showed he had received nearly 1,000 votes less than Watts. Mr. Dolph had anticipated the action of the Governor in giving the certificate to Cronin. The creation of the Electoral Commission could not be foreseen and he believed that the possession of the certificate of election was of vital importance. His plan was for the two Republican electors to take possession of the certificate, refuse to recognize Cronin, accept the resignation of Watts, fill the vacancy and proceed to vote and make the necessary returns, and had advised the electors accordingly. The plan was frustrated by the three Republican candidates entering the room assigned to them by the Secretary of State, which also contained the three Democratic candidates; so that instead of two Republicans and one Democrat, there were three Republicans and three Democrats. There was but one certificate issued for all these electors and that was delivered by the Secretary of State to Cronin, who came to the door of the room to receive it upon some preconcerted signal. It was evident that both sides anticipated forcible measures by the two Republican electors to secure possession of the certificate to accompany their returns, and as soon as the certificate was delivered to Cronin there was a rush for the door of the room by both

Republicans and Democrats, to the number of from twenty-five to fifty on each side, most of them armed and prepared to maintain their respective sides of the controversy in case of a difficulty in the room where the College was assembled, and for a time a conflict seemed imminent, and the situation was critical.

Conspicuous among those assembled at the door was Mr. Dolph, who still hoped the Republicans would be able to carry out the plan agreed upon, but he was doomed to disappointment. Cronin secured possession of the certificate, refusing even to allow the other electors to see it, proceeded to organize an Electoral College of his own, and cast his vote for Tilden.

When the facts were ascertained, a change of program became necessary. Mr. Dolph immediately and by common consent, assumed the direction of affairs, and by his coolness, promptness and determination snatched victory from defeat. Within less than four hours, and while the electors were still in session, he secured the proof and prepared the papers and returns upon which the Electoral Commission decided the controversy in favor of the Republican electors. He was summoned to Washington to give his testimony concerning the transaction, before the Senate Committee on Privileges and Elections. He consulted with the Republican leaders, and acted as counsel for the Republican electors. This transaction, in which Senator Dolph took such a prominent part, forms an interesting chapter in the history of Oregon.

The then Governor of the State had just been elected to the United States Senate; at the expiration of his term, Mr. Dolph was elected to succeed him, the Legislature being Republican. Mr. Dolph, upon entering the Senate, was placed upon several important committees, among them the, Committee on Public Lands and Claims. His legal ability and familiarity with the land

laws, made him a valuable acquisition to the first of these committees, during a period when Congress was dealing with the land-grant forfeitures, and other important questions affecting the Public Domain. His services upon the committee on Claims, his great industry and legal learning are of much value to that committee.

When, in 1886, interest in the subject of coast defenses was revived, and it began to attract public attention, the Senate created a Committee on Coast Defenses, and made Mr. Dolph its chairman. He has done much to bring the subject to the attention of the country and Congress. During his first session in the Senate the Committee on Commerce was increased in order to provide a place for him, and as a member of that committee he has been serviceable, not only to his own State, but to the whole country. Several important general measures in the interest of navigation, which have been presented by him have become laws, and he has been painstaking and diligent in obtaining information concerning all the great government works for the improvement of rivers and harbors. His presence on the committee has enabled him to secure increased appropriations for the improvement of the rivers and harbors of his own State, and the commencement of an important and much needed improvement at the mouth of the Columbia river. At present Mr. Dolph is chairman of the Committee on Coast Defenses, and a member of three of the most important standing committees of the Senate: the Committee on Foreign Relations, the Committee on Commerce, and the Committee on Public Lands. He is also a member of the Senate Select Committee to inquire into our relations with Canada.

He is one of the most useful members of the Senate; is respected by Senators on both sides of the Chamber, and is regarded as one of the able lawyers of that body, and as a man whose counsel is desirable in matters

of legislation, and upon party questions; whose character is above reproach; whose word is as good as his bond, and whose industry is unsurpassed in the Senate. Whenever a question is examined by him in committee, or discussed in the Senate, it is done with thoroughness and ability. He is a firm believer in the great possibilities of the Pacific coast, and has done much, both in and out of Congress, to direct attention to its capacity for improvement, its resources, its commercial importance, and its requirements.

Mr. Dolph was chairman of the Republican State Central Committee of Oregon, from 1866 to 1888; was also State Senator in 1866, but was ousted two years later by a strict party vote upon the pretense of making a more equal division of Senators into classes. He was, however, returned to the Senate in 1873, by a large majority, and served in that capacity during two successive sessions. In the State Senate he displayed all his characteristic qualities as a leader, being ready and forcible in debate; quick to perceive an opportunity, and fearless and relentless in denouncing the mistakes of his political opponents. His influence upon the Legislature to secure an honest and economical administration of public affairs was great. No man in his State has labored more, or more earnestly for the success of his party than Mr. Dolph.

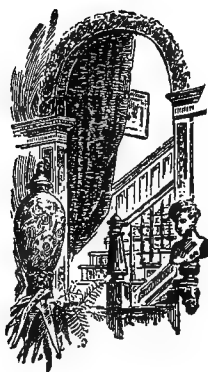
During the last moments of the session of the Legislature in 1882, after ten hours of constant balloting, amid much excitement, he was elected United States Senator from the State of Oregon, for the term of six years from the 4th of March, 1883. He declined to become a candidate for the position until the last hours of the session, and not until it became evident that unless he did so, no election would be had. He was re-elected in January, 1889, while at his post of duty at the National Capital, and is now serving his second term.

In October, 1864, he married Miss Augusta E. Mulkey, who still graces his home, and who is one of the most attractive women in Washington. Senator and Mrs. Dolph are prominent figures in Washington society, and their home is noted for its hospitality. They are surrounded by a family of bright, interesting children, the eldest of whom, when she entered society was considered a belle. She is now married and living in Washington. The next is a son, who has just attained his majority.

In 1886, Mr. Dolph was elected M. W. G. M., of the I. O. O. F. He filled the position with great satisfaction to the Order, and at the request of the Grand Lodge, as chairman of a committee, prepared a valuable digest of the laws and decisions of the Order. In June, 1882, he was elected M. W. G. M. of the A. F. and A. M., of Oregon, and served one year. He declined a re-election, as his official duties at Washington necessitated his absence from the State. He is a Mason of the thirty-third degree, and a member of nearly all the Masonic organizations in the country. He was for several years Grand Orator of the Grand Lodge of Oregon, and his orations, while serving in that capacity, at the time they were published, attracted wide and favorable comment in Masonic circles.

He possesses a logical mind and clearness of perception which generally carries him to correct conclusions. As a business man, he is honorable and successful. From his lucrative law practice he realized a handsome competency. His handsome residence in Portland, is one of the finest in the city. He is a fine example of what integrity and determined application will do for a man in a country where all alike can aspire to the highest positions. He has a commanding presence, is grave in demeanor and earnest in expression; he is an advocate of all moral reforms, and in religion a Baptist; he

is a staunch Republican, active in politics, uncompromising in his principles, because he believes them to be right, but is sufficiently liberal to be tolerant of the opinion of those who differ with him, and independent enough to condemn what he believes to be wrong in his own party. He has long been an acknowledged leader of the Republican party in his State, having the reputation of being one of its ablest advocates. As a speaker, he is forcible, clear and logical, rather than eloquent, but is always equal to the occasion.







*Daniel S. Phelps*

## DANIEL DOUGHERTY.

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THIS celebrated advocate, is of Irish decent on his father's side, one generation removed and was born in the City of Philadelphia on the 15th day of October, 1826. His mother was a native of the same place, and her grandfather, a patriot of the war of 1812, was killed at the battle of Lake Erie.

Mr. Dougherty received his education in the schools of Philadelphia, read law and was admitted to the Bar at the age of twenty-three. Oratory seems to have been an inherent faculty. From his earliest boyhood he had great talents for declamation, which he cultivated persistently; wandering into the fields outside of the limits of the city, where with the birds for an audience, he poured forth his words to the rhythmic measure of their sweet notes, cultivating those tastes with which nature had so abundantly endowed him. He commenced to take a prominent part in the debates of the local literary societies when a mere boy. On one occasion he personated Marc Antony in a well equipped Thespian Society, in the play of Julius Cæsar, his rendition of that difficult part bringing great praise for his perfect reading of those remarkable lines over the dead body of the Imperial Roman.

Long before the commencement of the practice of his profession, he had gained a reputation for his wonderful powers of oratory in Philadelphia, and his first speech as an advocate in the legal forum was listened to with rapt attention by a host of admiring friends and

strangers. It was in defense of one Smithers. Both the Judge and the opposing counsel, together with the press of the city bestowed upon this maiden effort of Mr. Dougherty at the Bar the highest eulogiums. The prisoner was evidently guilty, but the jury impressed with the persuasive arguments of the counsel for the defense, were out for a whole week, and at last rendered a verdict of acquittal. This remarkable result at once established the reputation of the young advocate. It was the beginning of that brilliant career which has brought wealth and reputation to Mr. Dougherty second to no one in the State of his nativity. He is always a drawing card in the court room whenever it is announced that he is to make a speech on either side of a case, but he never attempts to use his eloquence in petty and unimportant suits. The occasion must be of magnitude and worthy his wonderful powers; then the court room is crowded to its utmost capacity.

Mr. Dougherty has been called upon times without number to address different societies in all portions of the country, and his name as a Lecturer draws crowded houses. In 1859, he spoke before the Literary Society of Lafayette College upon: "Fears for the Future of the Republic." It was a delicate subject upon which to dwell, and in handling the theme he showed the manly independence of his character, telling in unmistakable language how indifferent the people of the United States were to the condition of the country, and the terrible degradation and violence of party spirit under the existing system of politics. He drew a pessimistic picture of the probabilities of the approaching crisis in our National affairs. It was only two years before the inauguration of the Civil War, and the events which crowded that gloomy period in the Republic's history, stamped his words of but a short time before, with all the weirdness of prophecy. Such an impression did this remarkable address make upon

the people, and so widely was it published, that before his elevation to the peerage, Bulwer Lytton quoted largely from it in a speech delivered in the House of Commons.

Some years after, Mr. Dougherty was induced to prepare a lecture on "Oratory" which was repeated in many portions of the United States, and was so rapturously received that his services in the lecture field were in great demand, thus he was encouraged to write two other lectures; one upon "The Stage;" the other upon "American Politics." His success was phenomenal. He was invited to deliver these lectures all over the country, and for several seasons made frequent tours. As an evidence of his popularity as a Lecturer and felicitous choice of subjects, it may be stated that he netted over \$40,000 from "Oratory" alone. Mr. Dougherty was compelled, however, to abandon the lecture platform to respond to the demands made upon him by the duties of his profession.

His first political speech was delivered before he had attained his majority. It was during the gubernatorial campaign of 1847 in his native State. A year later, in the celebrated Cass campaign, his services were in demand, although he was but twenty-two years old. During this exciting canvass, Mr. Dougherty "stumped" the northern tier of counties in the Keystone State, in conjunction with the Honorable Galusha A. Grow, who was then about the age of Mr. Dougherty. Mr. Grow shortly afterward entered the Lower House of Congress and subsequently became its Speaker. Mr. Dougherty, refusing all offers of political preferment, stuck rigidly to his profession which had greater attraction for him than the turmoil and vexation of public life. Though ready at all times to respond for active service in political campaigns; he has had no aspirations except to seek preferment in his profession. He entertains only contempt and disgust for the tricks and trades of wire pullers and

machine managers, and he has often expressed himself very earnestly on the subject. His love for the work which involved the task of addressing large and enthusiastic audiences still charmed him, and in the Pierce campaign in 1852, at the age of twenty-six, he took a very active and prominent part.

In 1856, while present as a mere spectator at the Democratic State Convention held at Chambersburgh, Pennsylvania, Mr. Dougherty was suddenly called upon to address that body. His speech created the greatest enthusiasm, and was one of the marked features of the ensuing campaign. While he was addressing the vast assembly, the venerable Josiah Randall, a leader of the Whig party, father of the lamented Samuel J. Randall, had announced his intention to vote for James Buchanan. Upon entering the hall he was invited to take a seat among the delegates. Mr. Dougherty was holding the audience breathless at the moment by his stirring eloquence, but he abandoned his line of argument, and advancing toward the old gentleman, welcomed him to the faith and fold of Democracy. This incident so striking, and performed in Mr. Dougherty's inimitable manner, caused the crowd to go wild with excitement over the remarkable scene; one that will long be remembered by those who witnessed it. This instance is detailed here to show the readiness with which Mr. Dougherty rises to the demands of any emergency; the true test of the powers of oratory in its broadest sense. The same aptness and rapidity with which he meets these unexpected and sudden demands, is illustrated as well in the following incident, which occurred on Saint Patrick's Day in New York City in 1867: Mr. Dougherty was addressing the Society of the "Friendly Sons of Saint Patrick." Among its members there was a strong English element. The orator was replying to the toast, "Ireland." In his elegant language and exquisite word painting he was por-

traying the wrongs under which that country suffered, when he was suddenly called to order in the most polite manner, of course, by the President, who said: "Sir, you are violating the rules of this organization, which does not allow any political allusions." Mr. Dougherty did not falter for an instant, but in his clear ringing tones, and in the most impressive manner, replied: "Mr. President, overlook my enthusiasm, if you can, and in the language of Edmund Burke, 'pardon something to the spirit of liberty.'" Instantly the whole assembly arose, and the repeated cheers made the walls of the room fairly tremble.

In 1860, Mr. Dougherty was opposed to the policy of President Buchanan in attempting to force the Le-compton Constitution upon Kansas, and took sides with Stephen A. Douglas. One of Mr. Dougherty's greatest political speeches was made at the time when the National Democratic Convention had adjourned from Charlestown, South Carolina, to reconvene at Baltimore, where Douglas was nominated, representing the Northern wing of the party, while the Southern wing, in a separate assemblage nominated John C. Breckinridge. The speech of Mr. Dougherty was made in Philadelphia immediately after the re-assembling of the Convention in Baltimore. Although he had been a warm friend of Mr. Breckinridge up to the time of his nomination by the Convention at Charleston, he opposed that gentleman's election, regarding the whole Breckinridge movement as meaning nothing less than an attempt to dissolve the Union. In this speech, Mr. Dougherty was unsparing in his denunciations of all who adhered to this ticket, and stood virtually alone among the host of prominent Democrats in Philadelphia. Notwithstanding the gloomy outlook under these unfavorable circumstances for success, through his efforts the City of Philadelphia polled over 9,000 votes for the Douglas ticket.

Mr. Dougherty, upon the election of Abraham Lincoln, was satisfied that war was inevitable, and wrote Senator Douglas to give an impetus to patriotic enthusiasm by replying to the treasonable utterances of the Southern Senators from his place in that body. At the very inception of secession, Mr. Dougherty arrayed himself on the side of the Union. Everywhere this "silver-tongued" orator could be heard pleading for the Union cause, and he was never silent upon this theme until the Confederacy was a thing of the past.

In the second campaign of Mr. Lincoln's candidacy for the Presidency, Mr. Dougherty was particularly active, and his popularity as a speaker was unexcelled by any other champion of the Union cause. When it was announced that he was to address a meeting in any city, the enthusiasm was unbounded. Once during this period when he was to speak in Concert Hall, the place was so crowded that even the presiding officer of the meeting was compelled to remain standing, and thousands were turned away; the speaker, only by the greatest effort, was able to make his way to the platform. A few days after this demonstration the Honorable Horatio Seymour was announced to address a Democratic mass meeting at Harrisburg, and Mr. Dougherty sent a polite note challenging him to a joint discussion upon the issues before the country, requesting that the preliminaries for the contest be arranged at once. This courteous offer was politely declined by Mr. Seymour through the medium of Honorable Heister Clymer. A short time succeeding this affair the leading citizens of Boston, headed by Edward Everett, extended an invitation to Mr. Dougherty to speak for the Union in Faneuil Hall. Mr. Dougherty promptly responded, as he ever does to requests of such a character. His appearance in that historic building caused the greatest enthusiasm witnessed within its walls for many a day. His speech awakened any possible leth-

argy that might have existed in the staid and cultured city, and is remembered as one of the greatest efforts ever made in behalf of the Union cause.

Mr. Dougherty returned to his home in Philadelphia, and after speaking in various towns and cities throughout the State, was called to New York, where he spoke in Cooper Institute and the Academy of Music. Tickets were issued for admission to the last mentioned place, and every available inch of space was occupied. The doors were closed and positive orders given to admit no more. It was the grandest reception that the great metropolis had ever tendered a private citizen of the Republic.

At the close of the war Mr. Dougherty returned to the practice of his profession, and for more than ten years afterward did not again enter the arena of politics as a public speaker. During the Tilden-Hayes campaign he once more buckled on his armor of oratory and made a speech to the Democracy of the City of New York, in Cooper Institute. Mr. Tilden then personally requested Mr. Dougherty to devote a portion of his time to his interest in the campaign in the Empire State. Mr. Dougherty's professional obligations precluded the possibility of complying with the flattering request of the distinguished candidate for the Presidency, but he did make one powerful speech in his behalf, in Philadelphia before the close of the campaign.

In 1880, Mr. Dougherty was the guest of the *Americus Club*, of Philadelphia, and with its members attended the National Democratic Convention, which met in Cincinnati. He was a warm friend of General Hancock, and decidedly favored him for the Presidency. This fact was known to many, and the delegate at large from the State of Pennsylvania, Mr. R. Milton Spear, requested Mr. Dougherty to take his seat and present Hancock's name to the convention. The suggestion in reality, came from a number of Hancock's friends, who were aware

of Mr. Dougherty's predilections, and the power of his eloquence on an occasion of such moment. He accepted the honor, and had only a very short time in which to prepare. He resolved to make his speech brief, terse, epigrammatic and most emphatically to the point. From the instant he took his stand upon the platform, he riveted the attention of the immense and enthusiastic audience. His voice, clear as a trumpet, rang through the great hall, while his attitude and splendid declamation created the wildest fervor, inspiration and earnestness. When he had concluded his five-minute speech the nomination of Hancock was a conceded fact. Thus, by the eloquence of a single individual, occupying only the twelfth of an hour, was a man named for the greatest office in the gift of the American people. It may truthfully be said that had General Hancock been elected, a single speech had made a President of the United States. In the splendid campaign following this nomination, Mr. Dougherty's potent influence and eloquence was felt throughout the entire country. He made glowing speeches in every battle-state of the Union; was everywhere received as the "silver-tongued orator" of the United States, and did more than any other one man to crown the nomination made at Cincinnati with success.

In 1887, though still making Philadelphia his home, he was called to defend the New York Alderman, Thomas Cleary, who with others of his colleagues was charged with bribery. In all the previous trials of the aldermen on this charge they had been convicted. In the instance of Cleary, however, with Mr. Dougherty to defend, the record was broken. The jury stood six to six, and not being able to agree were discharged. Mr. Dougherty's speech in this famous trial was a masterpiece of logic and eloquence, and was the topic of conversation in the great city for many days.

The following year he was called upon to address the

State Bar Association, of New York, on the occasion of its annual meeting at Albany, the capital of the Commonwealth. The address was delivered in the Senate Chamber, its title: "Some Reflections on the Bar, its Integrity and its Independence."

Shortly after this Mr. Dougherty removed to New York City, and there, as was to be expected, immediately took a position among the first lawyers of the Metropolitan Bar. Six months residence brought him prominently before the Democracy of the State. He was sent as a delegate to the National Convention which met at Saint Louis in 1888, and nominated Grover Cleveland for the Presidency. Mr. Dougherty was selected to make the nominating speech, and the enthusiasm he created by that masterly effort is indescribable. The effect produced upon the vast assemblage is a part of our history. When he pronounced his last words, "I give you a name entwined with victory, I nominate Grover Cleveland of New York," the great applause burst forth and lasted twenty-four minutes without ceasing. The speech is very short, and we give it in full:

"I greet you, my countrymen, with fraternal regard. In your presence I bow to the majesty of the people! The sight itself is inspiring; the thought sublime! You come from every State and Territory, from every nook and corner of our ocean-bound, continent-covering country. You are about to discharge a more than imperial duty with simplest ceremonials. You, as representatives of the people, are to choose a magistrate with power mightier than a monarch, yet checked and controlled by the supreme law of a written Constitution.

"Thus impressed, I ascend the rostrum to name the next President of the United States. New York presents him to the Convention and pledges her electoral vote. Delegations from the thirty-eight States and all the Territories are assembled without caucus or consultation,

ready simultaneously to take up the cry and make the vote unanimous. We are here, not indeed to choose a candidate, but to name one whom the people have already chosen. He is the man for the people! His career illustrates the glory of our institutions. Eight years ago, unknown save in his own locality, he for the last four has stood in the gaze of the world, discharging the most exalted duties that can be confided to a mortal. To-day determines that not of his own choice, but by the mandates of his countrymen, and with the sanction of Heaven, he shall fill the Presidency for four years more. He has met and mastered every question as if from youth trained to statesmanship. The promises of his letter of acceptance and inaugural address have been fulfilled. His fidelity in the past inspires faith in the future. He is not a hope. He is a realization.

“Scorning subterfuge, disdaining re-election by concealing convictions, mindful of his oath of office, he courageously declares to Congress, dropping minor matters, that the supreme issue is reform, revision, reduction of National taxation. That the Treasury of the United States glutted with unneeded gold, oppresses industry, embarrasses business, endangers financial tranquility, and breeds extravagance, centralization and corruption. That high taxation, vital for the expenditures of an unparalleled war, is robbery in years of prosperous peace. That the millions that pour into the Treasury, comes from the hard-earned savings of the American people. That in violation of equality of rights, the present tariff has created a privileged class, who, shaping legislation for their personal gain, levy by law contributions for the necessities of life from every man, woman and child in the land. That to lower is not free trade. It is to reduce the unjust profits of monopolists and boss manufacturers, and to allow consumers to retain the rest. The man who asserts that to lower the tariff means free trade, insults

intelligence. We brand him as a falsifier. It is furthest from thought to imperil capital or disturb enterprises. The aim is to uphold wages and protect the rights of all.

"The administration has rescued the public domain from would-be barons and cormorant corporations faithless to obligations, and reserved it for free homes for this and coming generations. There is no pilfering. There are no jobs under this administration. Public office is a public trust. Integrity stands guard at every post of our vast empire.

"While the President has been the medium through which has flowed the undying gratitude of the Republic for her soldiers, he has not hesitated to withhold approval from special legislation if strictest inquiry revealed a want of truth and justice. Above all, sectional strife as never before is at an end, and sixty millions of freemen in ties of brotherhood are prosperous and happy. These are the achievements of this administration. Under the same illustrious leader we are ready to meet our political opponents in high and honorable debate, and stake our triumph on the intelligence, virtue and patriotism of the people. Adhering to the Constitution its every line and letter, ever remembering that powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people, by the authority of the Democracy of New York, backed by the Democracy of the entire Union, I give you a name entwined with victory. I nominate Grover Cleveland of New York."

In 1889 the first Catholic Congress of the United States met at Baltimore. Mr. Dougherty represented New York as a delegate. On that occasion, in his usual eloquent and scholarly style, he delivered a speech that has treasured his name as a household word, and endeared him to every Catholic home in the land.

Time and time again, Mr. Dougherty has declined

to have his name mentioned for public position, but political life has no charms for him.

Mr. Dougherty possesses that rare gift of varying his style of speaking with the occasion. Political subjects bring out his fire and patriotism, and he glows with the earnestness of his thoughts. His manner before a court is argumentative and conversational; before a jury he is the impersonation of the impassioned advocate whose soul is enveloped in his cause. He also possesses the rarer faculty of after-dinner speaking, for there his social attributes are manifested. Although his forte is speaking from the rostrum, Mr. Dougherty has never yet rung false to any test of his metal. He is a great favorite socially, and his character as a man and a gentleman fill all the requisites of purity and integrity.







Geor. Brown

## GEORGE FRANKLIN EDMUNDS.

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GEORGE FRANKLIN EDMUNDS one of the foremost Constitutional lawyers of America, in addition to a continuous legal practice has been in public life for the period of thirty-seven years. Of this unprecedented service, two decades and one lustrum have been passed in the United States Senate, during which time the country experienced its darkest days, and despondency hung over the Republic like a pall. Though Mr. Edmunds and many of his colleagues have been severely criticised for the means adopted to bring order and peace out of chaos, yet the people of the country owe a debt of gratitude that only persistent and invariable loyalty can repay.

As is constantly shown in the history of America's eminent men, Mr. Edmunds did not receive a college education. He commenced his studies in the common schools of his native State, one of New England's characteristic commonwealths, in whose galaxy of historic memories is the birth place of the public school. From its primitiveness has been evolved, under Democratic domination, that magnificent system of instruction which is the pride of our country, and the admiration of the civilized world.

Mr. Edmunds was born in Richmond, Vermont, on the 1st of February, 1828. He completed the course provided by the curriculum of the public schools, and continued his studies at his home under the tutelage of a private instructor. At a very early age he began to

wrestle with the knotty points and perplexities of Blackstone and Coke. So assiduously did the young law student devote himself to the task, that upon attaining his majority, he was immediately admitted to the Bar. He commenced practicing at once, opening an office in Burlington, the most important and wealthy town in Vermont. This was in 1851, and notwithstanding his extreme youth, clients came in numbers. He rose to distinction rapidly and was soon recognized as a leading member of the Bar in the locality of his new home. Three years later, in 1854, he entered upon his public career which has been remarkable for its length, conspicuous for its brilliancy. At the beginning of his political preferment, when but twenty-six, he was elected to the Lower Branch of the Legislature, where for three terms he served as its Speaker. In 1861, his brilliant talents were still further recognized. He was sent to the State Senate, and selected President *pro tempore*.

Immediately upon his accession to the State Senatorship, the Civil War burst upon the country with all its vague, indefinite and alarming possibilities. In a Republican State Convention at this time, whose members formed a coalition with the war Democrats, for the purpose of greater safety and security against disloyal designs, Mr. Edmunds was an active element. To him is accorded the authorship of those resolutions of loyalty adopted by that body, the purport of which were the perpetuity of the Union, and a vigorous prosecution of the war for maintaining the integrity of the Nation.

Upon the death of the venerable Solomon Foote, who had served Vermont so faithfully in the United States Senate, Mr Edmunds was appointed by the Governor to fill the vacancy. Never did mantle of public worth fall upon shoulders more gracefully, or more deservingly, as the history of the country will confirm. This may be asserted now in the fullness of confidence,

for Mr. Edmunds has resigned his exalted position, and is at this moment a private citizen of the Republic. At the time of Mr. Edmund's elevation to the United States Senate, he had passed the minimum of eligibility by only three years. When the Legislature of Vermont convened in joint session to ballot for a United States Senator to fill the unexpired term of the lamented Foote, Mr. Edmunds was promptly elected. Since then he has been returned four successive terms.

Upon entering the Senate Mr. Edmund's position was at once assured. His reputation for integrity, and his great legal ability conjoined with his parliamentary knowledge had preceded him. He was placed on several committees. He has during his long Senatorial career served on the Committees on Commerce, Public Lands, Appropriations, Pensions, Retrenchment, Private Land Claims, Library and Judiciary. Of the Judiciary Committee Mr. Edmunds has been Chairman for many consecutive sessions, which important place he occupied at the date of his resignation.

Of Mr. Edmund's great legal talents, particularly where are involved those grave Constitutional questions concerning the individual, the State and the rights of corporations, the universal verdict is that he is one of the most learned. As a counselor he ranks with the leaders of the profession. To him the Constitution of the United States is like a section of the earth to a geologist, and in his place in the Senate, with a pile of law books before him he seemed the very impersonation of an expounder of that great instrument.

His wonderful knowledge of the intricacies of the law has been a source of gratification and real pleasure to him rarely falling to the lot of man. To most of us our vocation becomes a satiety by its persistence; with Mr. Edmunds it is a continuous solicitude fraught with the most ardent love. His long service in the

Senate as Chairman of the Judiciary Committee, is almost unparalleled in the history of that body. In that capacity he has been called upon to decide the most momentous Constitutional questions, which is the grandest monument of his usefulness to the country. In addition to this severe strain upon his legal talents, his counsel has been continually sought on all propositions involving a perfect knowledge of the proper construction to be placed upon Constitutional interpretation, by the great corporations of the country. By many of them he has been regularly consulted upon the intricate questions which have arisen under our Government, involving the rights of an individual, or a body in its corporate capacity. From this source his income has been large, and he retires to the calmness of the evening of his life, untrammelled by the seriousness which comes, alas ! to so many men at the close of their days.

When the breach between President Andrew Johnson and Congress was initiated, resulting in his Impeachment and trial ; and the famous Tenure-of-Office-Bill was enacted, Mr. Edmunds had parliamentary control of the measures. The question involved hinged upon the prerogative of the Executive to remove an officer without the consent of the Senate. Ever since the adoption of the Federal Constitution, according to the construction of that instrument in relation to this matter, it had always been conceded that the President possessed the unqualified power of removal. His will was regarded as absolute, and it was never firmly questioned until Mr. Johnson's accession to the Presidency. He had as precedents for his action, the practice of his predecessors, and the opinion of the very first Congress on the subject. The history of that first Congress shows conclusively that it provided for those officers whose appointments depended upon confirmation by the Senate, as required by the Constitution, but it also in explicit terms, left to

the Executive the power of removing them at his pleasure. It is true that that Congress was not unanimous upon the subject of removal, and to the present time it continues to be a vexed question among all our Constitutional lawyers. Daniel Webster, one of the greatest expounders of our fundamental law, has spoken upon the subject, to which the student of American history is referred. It will there be seen that Webster denied the right which that first Congress conferred upon the Executive in relation to removals from office. He believed that Congress had the power to reverse the decision of 1789, and declared that he meant to hold himself at liberty to act upon the question whenever it should arise, in its relation to the safety of the Government and the proper construction of the Constitution, might demand.

Mr. Edmunds, from his place in the Senate, had originally said that the President possessed the power to remove those confidential advisers he had chosen whenever it should seem to him that the relation between himself and any one of them had become so as to render the confidence he had reposed, and the trust he had confided in harmonious, that he had the right to dispense with the services of that officer in vacation, and have some other person act in his stead.

When the bill, which ten months before had been the cause of the Impeachment of President Johnson, was repealed, or rather suspended, Mr. Edmunds gave as a reason for defending the measure, the peculiar circumstances that attended the administration of Mr. Johnson. He believed that under those strained circumstances it was desirable and necessary to immediately inaugurate a general removal of officers appointed by that Executive. Certainly the action of Mr. Edmunds in this defense was very strange, and a complete stultification of his expressed views upon the subject in a speech delivered pre-

viously. He has been very severely criticised for his action; all of which may be found in the official records and in various published political works.

The Forty-seventh Congress, it will be remembered, committed the very questionable act of deposing Charles Sumner from the chairmanship of the Committee on Foreign Relations. Mr. Edmunds took an active part in the removal of the distinguished Senator from the place he had filled so long and so ably. When the question came up for discussion, Mr. Edmunds, in the course of his remarks said that it was one whether the Senate of the United States and the Republican party are quite ready to sacrifice their sense of duty to the whims of a single man, whether he comes from New England, or from Missouri, or Illinois, or from anywhere else. He compared the protests which were made against Sumner's removal by his friends, to the nursery story of the children who thought the sky was going to fall, when in the end it turned out that only a rose leaf had fallen from a bush to the ground.

Mr. Edmunds was chairman of a joint committee of the Senate and House, which in 1877, reported a bill to provide for and regulate the manner in which the votes should be counted for President and Vice-President, and to decide upon questions involved therein, for the term commencing on the 4th of March, 1877. This was the bill creating the famous Electoral Commission, of which extraordinary body Mr. Edmunds was also a member, on the part of the Senate.

In the convention which nominated General Garfield for the Presidency, Mr. Edmunds received thirty-four votes for that exalted position.

Mr. Edmunds has resigned his position in the United States Senate, where for so many years he has been such a distinguished figure, and such a useful member. The reason assigned for this action, when there was be-

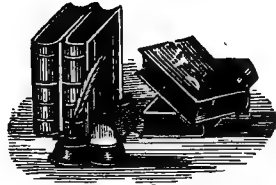
fore him so many years of further service, is simply on account of the ill health of himself and invalid daughter. The climate of the Capital was not at all conducive to the latter, so he sacrificed what of honor a place in the Senate imposes, to the bonds of parental love. This alone is said to be the cause of his abandonment of political life.

His claim upon a grateful people as a Senator, aside from his loyalty, lies in the industrious manner in which he watched the bills that made demands upon the Treasury. Every measure that was presented of this character, received his most earnest and careful scrutiny. He was noted for his perspicacity in discovering errors and any attempted impositions. No other Senator has been as faithful in this particular as Edmunds. His integrity was of that rigid Roman character instinctively abhorrent of anything that savored of scheming against the Government. He possessed the courage, too, in always exposing attempts of this nature, the moment they were essayed. No influence, no flattery could swerve him for an instant from his course in this grand attribute. He will be missed, as all great Senators are missed, when they sever relations of such usefulness.

Senator Edmunds possessed none of those gifts of oratory which compel an audience to linger on the words with rapt attention as they fall from the lips of the orator. His voice and intonation are not pleasant; nor was he what might be called an interesting speaker. When logic, convincing argument and an impressiveness of truthfulness are considered, however, Mr. Edmunds is a peer.

Personally, Senator Edmunds presents a strange phase of American physique. Tall, lean of body and long of face, with a round bald head, and being angular of limb, it is no wonder the journalists who frequent the Capital have called him Saint Jerome. Those who have

visited the Vatican Palace, at Rome, must have been impressed with the picture of Saint Jerome placed immediately opposite Raphaël's "Transfiguration." The resemblance is so striking that one can almost imagine that in Senator Edmunds he has seen the great Saint in the flesh.







## WILLIAM MAXWELL EVARTS.

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IT is safe to assume that no character in all the annals of American jurisprudence stands more prominently than William Maxwell Evarts. He is an original and profound thinker, has had no superiors and but few peers.

He springs from that strong and hardy race of New Englanders whose sterling qualities and industrious habits, have given to the United States its best civilization, and which has been the germ of all that is progressive in the great empire the West has evolved from its wild primitiveness. He stands as a type of the brains which the East has for more than a century and a half, been the symbol of the Nation's intelligence and greatness.

Mr. Evarts falls but two inches short of the full measure of six feet, is of slender frame, and the embodiment of that intellectuality which characterizes New England as the seat of culture and the mother of education for the whole country. He was born in circumstances which admitted of his receiving the benefits of a thorough education, but thereafter was dependent entirely upon his own exertions for his progress in life. He has not had to struggle with grinding poverty, the fate of nearly all of our other great men in America, which in his case is a commendation rather than the reverse, for it is a stultification of Lord Mansfield's apothegm: "That the best thing to make a great lawyer, is great poverty."

Mr. Evarts was born in Boston on the 6th of Feb-

ruary, 1818. He began his education at the celebrated Latin School of that city, the cradle of learning in which many Americans have been rocked, who have attained eminence in law, politics and the councils of the Nation. So rapid was his advancement that at the early age of fifteen he entered the freshman class of Yale College, and four years later, was graduated with high honors, before he attained his majority. A year later he became a student in the law school of Harvard University, where he remained a year mastering the abstruse propositions of Coke, and the theories of the great legal minds that have furnished the text books of our jurisprudence. Finishing the course at that famous institution of learning, he became a student in the law office of the celebrated Daniel Lord, under whose tutelage he prepared himself for admission to the Bar. Under the most excellent supervision of this great advocate he was thoroughly drilled and his success as an eminent lawyer is due, in a measure to the discipline and the sound doctrines instilled during that period.

In 1841, at the age of twenty-three, he passed his examination, and was admitted to practice in the City of New York. From the moment of admission his remarkable talents received recognition. He never experienced that forlorn condition in which the majority of young attorneys have to serve an apprenticeship, idle months of almost hopeless expectancy, looking for clients, who come late, if they come at all. Cases came to Evarts as thick as the falling leaves of the forest in autumn, and he had no spare moments to dwell upon the possibilities of what the future might have in store for him. It was work from the very beginning of his wonderful career. In a very short time after he began to make his appearance in the courts, where his remarkable talents at once attracted attention and surprised the older members of the Bar, he was consulted by men aged

enough to be his father, upon the abstruse and knotty questions which presented themselves in the litigation of that day, and his carefully considered opinions on such occasions, were invariably correct, for when submitted to the Bench, in course of argument, they were confirmed in the decisions rendered.

Mr. Evarts was a hard and conscientious toiler in the intricate paths of his profession. Gifted with extraordinary talent, the result of innate genius, he labored with untiring zeal and industry, until he had accumulated an amount of legal learning of which to attempt the acquisition would appall a man of less ability and perseverance. It was no boy's play in his years of patient and persistent study. Like Rufus Choate, he read some law every day throughout all the period of his active life. There was no rust allowed to gather upon the polished tablets of his mind and the result was, that long before he reached the meridian of his years, he was the acknowledged peer of any man in the profession who practiced before the Bar of any country.

Eight years after he had commenced the practice of law in New York City, in 1841, his first political appointment came to him unsolicited. He was made Assistant United States Attorney of the city, a most responsible office, and one which demanded his untiring efforts and scrupulous attention. It was no sinecure; hard work was the condition imposed, but he filled the contract with his ever indefatigable energy, throwing his talents into the scale with the results that always marked his career. He held the position for four years, and while in his official capacity made his first record as a great lawyer. It was during the second year of his tenure; an expedition had been fitted out against the Island of Cuba; one of those filibustering, marauding adventures for which that period was famous, and known to history as the "Cleopatra Expedition," the leaders of which were

arrested and prosecuted. In this celebrated case Mr. Evarts was counsel for the United States, and his brilliant argument of the points of international law involved in the suit, which led to the conviction of the principal criminals, was a notable triumph for him.

About the year 1857, an immense amount of litigation grew out of what was known as the Metropolitan Police Act; the question of the Constitutionality of the measure was the cause of the suit, the city opposed the measure as Unconstitutional and in the trial of the dispute Mr. Evarts was retained to defend the act, and succeeded in winning the case.

In 1860, what is known to law as the Lemmon Slave Case, created great excitement and interest, all over the North as well as in the South. Lemmon was the owner of certain negro slaves and was *en route* from the "Old Dominion" to tranship from New York to Texas. Upon entering New York the slaves claimed their freedom. To determine the question it was taken into the courts. Virginia retained Charles O'Connor, and the State of New York retained Mr. Evarts. The manner in which Mr. Evarts handled this celebrated case in the Court of Appeals, is one of his most remarkable legal efforts.

Of the prominent cases in which the Federal and State Governments have been parties, and in which Mr. Evarts has been the senior counsel, reference to but a few can here be given; it would require volumes to relate them in all their details; the reader is, therefore, referred to the official reports, easy of access, for a full statement of the great questions involved.

In 1863, Mr. Evarts was counsel on the part of the United States, in the suit brought before the Supreme Court at Washington, to test the validity of the doctrine maintained by those peculiarly interested, of maritime prizes as applicable to the Civil War. This important

question was argued by Mr. Evarts, and the Government gained the suit.

In 1865 several of the states declared they had the right to tax the securities of the United States included in the investments of the National Banks. The banks employed Mr. Evarts in this suit as their counsel, the argument rested upon the Unconstitutionality of the states' taxation. The Court gave its decree in favor of the banks, and thus Mr. Evarts scored one more great victory.

When the prosecution against Jefferson Davis for treason against the Government, was commenced, Mr. Evarts was employed by the United States to conduct the case for the Government. But the suit was never brought to trial; the general amnesty of December 25, 1868, putting an end to the prosecution. After this, many other cases as before, came into his hands growing out of the strange events of the Civil War, in which great Constitutional problems were involved, never dreamed of as among the probabilities prior to that time.

In the remarkable State trial of the Impeachment of President Andrew Johnson, Mr. Evarts was among the defenders of the Chief Magistrate; opposed to him were the Managers of the Impeachment on part of the House of Representatives, but his wonderful management of that celebrated case, added immortal splendor to his already unapproachable renown.

Mr. Evarts' closing portion of his argument in the defense of President Johnson, is here presented to give an idea of his style of oratory:

"We never dreamed that an instructed and equal people, with a Government yielding so readily to the touch of the popular will, would have come to the trial of force against it. We never thought that the remedy to get rid of a ruler would bring assassination into our political experience. We never thought that political

differences under an elective President would bring in array, the Departments of the Government against one another to anticipate by ten months the operation of the regular election. And yet we take them all, one after another, and we take them because we have grown to the full vigor of manhood. But we have met by the powers of the Constitution these great dangers—prophesied when they would arise as likely to be our doom—the distractions of civil strife, the exhaustions of powerful war, the intervention of the regularity of power through the violence of assassination. We could summon from the people a million of men and inexhaustible treasure to help the Constitution in its time of need. Can we summon now resources enough of civil prudence and of restraint of passion to carry us through this trial, so that whatever result may follow, in whatever form, the people may feel that the Constitution has received no wound? To this court the last and best resort for its determination, it is to be left.”

In the trial of Henry Ward Beecher, the celebrated Brooklyn divine, one of the most important jury cases of modern times, which occurred in the “City of Churches” in 1875, Mr. Evarts bore the burden of being the principal figure in the elaborate defense. The record of this peculiarly interesting suit, occupying in its trial six months, fills several volumes. Its daily proceedings held the public nerve of every country, where the English language is spoken, at its utmost tension for the whole six months of its continuance. The charge of the Judge in submitting the case to the jury, may be regarded as a model of brevity, and well worthy the emulation of many who occupy the bench: “You have heard all the testimony and the arguments; take the case and decide it according to the evidence.” Though one or two jurors produced a disagreement of the jury, yet the world accepted the result as an acquittal, and for that fact,

the masterly efforts of Mr. Evarts in the suit must assuredly, in a great degree, be accorded the credit.

In 1861, Mr. Evarts was a rival candidate for the United States Senate from the great State of New York, with Horace Greeley in the Republican caucus, to succeed William H. Seward. The result of the caucus balloting was that neither one of New York's distinguished citizens mentioned above, secured the coveted prize, as Mr. Ira Harris was chosen.

In the darkest days of the Civil War, when Confederate cruisers, known as Armored-Rams were being built, launched and fitted out in England, Mr. Evarts was sent by Mr. Lincoln to the Government of England to arrest and prevent these proceedings. By the force of his intellect and his perfect knowledge of international law, he accomplished the purpose for which he was sent. He reasoned the question with the ablest public men in power over there, and so convinced them of a violation of the rights of nations in the premises, that assurances were pledged to him that the United States Government need have no further apprehension, for the vessels would not be allowed to sail, and he so wrote Mr. Seward, Secretary of State. England kept her word. This occurred at the blackest period of the Union's struggle, Mr. Evarts did more than a formidable fleet could have done, for which he deserves the country's gratitude.

After the close of the Civil War, he was sent with other distinguished lawyers, as counsel for the Government to Geneva, in Switzerland, by President Grant to determine the vexed question of the reclamation of the United States against England for her aid in permitting the Confederate cruisers to devastate our commerce on the high seas during the war. Before this celebrated tribunal of arbitration, Mr. Evarts was the prominent figure, and the peaceful adjustment of the difficulties in-

volved in the great international question is largely due to his enforcement of the law of nations.

Mr. Evarts was nominated Attorney General of the United States by President Andrew Johnson immediately after the Senate had refused to confirm Mr. Stanbery for that position ; Mr. Evarts was as promptly confirmed as Mr. Stanbery had been rejected. This was the first official position under the Government that Mr. Evarts had held.

He was Counsel for President Hayes before the Electoral Commission, and the country knows the result.

In 1877, Mr. Hayes nominated him for Secretary of State. During his administration of that Department, the vexed question of the fisheries, which had been in dispute between the United States and England for nearly three quarters of a century, was settled by the appointment of a committee of arbitration, known legally as "The Fishery Commission," by whose unrighteous decision the United States had an award of over five \$5,000,000 to pay to England. Mr. Evart's course in the settlement as Secretary of State, was highly judicious and dignified, and the matter has never been the subject of criticism.

In 1885, Mr. Evarts was elected to represent New York in the greatest deliberative body in the world—the United States Senate, where he served his full term, and David B. Hill was elected to succeed him, the Legislature being Democratic.

During Mr. Evarts extensive and extended career in the practice of the law, he has been engaged only in the most important and complicated cases ; generally involving great Constitutional questions. He has accumulated a competence, and bears a reputation far above that of most great lawyers, at the head of whom he undoubtedly stands to-day. Mr. Evarts is a great common law lawyer ;

he is one of the clearest and most profound thinkers on public questions in the country and possesses one of the most original minds.

Mr. Evarts has a clear, ringing voice of great penetration and power, a very pleasant manner of delivery, often rising to earnestness and eloquence; he possesses a most remarkable comprehensiveness, which always enables him to thoroughly grasp the question at issue or the case under consideration, and rarely fails to carry conviction to the reason and judgment of his auditors. "He is somewhat at times given to indulging in words that are extraordinarily long ones, and mostly of Latin and Greek derivation, and his sentences abnormally lengthy and confusingly complex; but his diction, notwithstanding, is not the less eloquent, the matter not less valuable, the delivery no less forcible, the effect no less pleasing."

Of slender frame, but a giant in mind, and always ready to grapple with the most complex cases, involving the most knotty problems of law, his industry at such times is phenomenal. His wit is brilliant and spontaneous, his epigrams are always current, and he is in every respect a finished orator. He has been successful beyond measure in his profession, and for many years could make his income just what he pleased.

A pen picture thus describes him, which a study of the accompanying portrait to this sketch will abundantly confirm: "That forehead is the seat of mental profundity, acumen and versatility that have few superiors. Small and slight in figure, in intellect he is a veritable giant. Senator Evarts, who won fame a generation ago, has well maintained his high position, and is to-day one of the representative men of the country."

Of all the great lawyers ever practicing before the Bar of this country, none have been more continually employed as counsel in successive cases arising in which Con-

stitutional questions have been involved as well as cases otherwise celebrated. A recapitulation will call to mind that he was counsel for the State of New York in the Lemmon Slave Case, was the principal counsel for Henry Ward Beecher, counsel for President Andrew Johnson, for President Hayes before the Electoral Commission, for the United States before the Arbitrators at Geneva, Switzerland, and many others of equal importance briefly mentioned in this sketch of his career.

When many great lawyers shall have passed away, and their memories forgotten, Mr. Evarts will be remembered as one of the safest of counselors, and the prince of lawyers at the American Bar.







W. P. Fessenden

## WILLIAM PITT FESSENDEN.

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WILLIAM PITT FESSENDEN, distinguished lawyer, statesman and financier, was born in Boscawen, New Hampshire, on the 16th of October, 1806, and died in Portland, Maine on the 6th of September, 1869, in the sixty-third year of his age. He received a thorough classical education, having been graduated at Bowdoin College, Brunswick, Maine, one of the famous institutions of learning in this country. Immediately after Mr. Fessenden left college he commenced the study of law, and was admitted to the practice at Portland, Maine, in 1827. He then opened an office at Bridgton, Cumberland county, in the same State, but two years later removed to Portland, where he made his home until his death.

He very early became established in his practice, but soon manifested a decided predilection for politics. In 1831, when only twenty-five, he was elected to the Lower Branch of the Legislature on the Whig ticket. When he took his seat he was the youngest member on the floor of the House, this was a remarkably strange fact and out of the ordinary methods of New England's politics in those early days, where age carried with it a prestige to which youth could hardly hope to aspire. Notwithstanding this, so great were his talents in debate, that he became a leader almost immediately. His advice was sought on nearly every matter which required sound judgment, logical reasoning and familiarity with current questions. For nine years after his first appearance as a legislator, he devoted himself during the recesses of

the Legislature, to the practice of his profession, though all the time he was a student of American politics. He had risen to the front rank as a lawyer very rapidly, and was regarded as a leader long before he arrived at the prime of his manhood. As a Constitutional expounder he ranked with the foremost counselors of the country, and when he took his place in the Senate, was the acknowledged peer of anyone in that body on Constitutional questions, ranking but very little below Daniel Webster himself, and before that great man died, was considered his equal.

In 1832, Mr. Fessenden was a delegate to the National Whig Convention, which nominated Henry Clay for the Presidency. He was also a delegate to the conventions which nominated General Taylor and James K. Polk, the latter time supporting his warm personal friend Daniel Webster.

In 1840, Mr. Fessenden was again sent to the Legislature of his State, but the following year was elected to the Lower House of Congress, the commencement of that honorable career which has made his name famous in the annals of the Nation. He declined a re-nomination to Congress, determining to devote himself to the law, in which profession he had made such rapid strides, that he was regarded as one of the leading advocates of his years in the Union. In 1845, however, he was induced to again enter the arena of politics, having been elected to the Legislature. In 1853, he once more represented his district in that body, and in the following year through a coalition of the Whigs and Free Soil Democrats, he was sent to the United States Senate. There he remained during his life with the exception of a short period when he was in the Cabinet of President Lincoln. This hiatus occupied only eight months, from July 1864, to March 1865, while he was Secretary of the Treasury.

Mr. Fessenden, by his determined course in the Senate in opposition to the vicious legislation concerning the admission of Kansas into the Union, may be regarded as one of the founders of the Republican party, and when Mr. Lincoln assumed the office of Chief Magistrate, was one of his most able and untiring supporters. Many of the great war measures made necessary by the exigencies of those troublous times, were championed by him, while all received his powerful aid.

Senator Fessenden was Chairman of the Committee on Finance during the war period, one of the most important, if not really the committee of greatest moment, among them all during those dark and tumultuous times. In this capacity he devoted himself entirely to the National cause.

The story of Mr. Fessenden's appointment as Secretary of the Treasury, is an excellent exponent of President Lincoln's remarkable judgment in the selection of men, and Mr. Fessenden's readiness to sacrifice himself upon the altar of his country's demands. Salmon P. Chase had resigned from the onerous position on account of political aspirations, unquestionably, and the President was embarrassed in the choice of his successor. He had sent the name of ex-Governor Todd, of Ohio, to the Senate for confirmation. The nomination was not received with that graciousness which had generally distinguished Mr. Lincoln's appointments, and to the relief of the President and his friends, the office was peremptorily declined by telegram from Governor Todd. Mr. Lincoln's motives in selecting Governor Todd were based upon the idea, it is said, that he did not think it advisable to make a selection from the Eastern States, so decided upon Ohio as a first thought. One of the Assistant Secretaries, in relating the manner of Mr. Fessenden's appointment, says:

"Before sunrise the day after Governor Todd was

dismissed from the President's mind as an available candidate, I was sent for by Mr. Lincoln. I rode to the White House early in the morning and found the President in his waistcoat, trousers and slippers. He had evidently just left his bed and had not taken the trouble to dress himself. As I entered the room he said:

" 'I have sent for you to let you know that we have got a Secretary of the Treasury. If your sleep has been disturbed you have time for a morning nap. You will like to meet him when the Department opens.'

" 'I am indeed glad to hear it, but who is he?'

" 'Oh, you will like the appointment, so will everybody. It is the best appointment possible. Strange that I should have had any doubt about it. What have you to say to Mr. Fessenden?'

" 'That would be an eminently proper appointment; the chairman of the Senate Committee on Finance; perfectly familiar with all our financial legislation; a strong, able man, and a true friend to the Union. He is also next in the direct line of promotion. But he will not accept. His health is frail, and his present position suits him. There is not one chance in a thousand of his acceptance.'

" 'He will accept, have no fear on that account;' replied the president, 'I have just notified him of his appointment, and I expect him every moment.'

" 'At this moment the door suddenly opened, and Mr. Fessenden almost burst into the room without being announced. His thin face was colorless; there was intense excitement in his voice and movements.

" 'I cannot! I will not! I should be a dead man in a week. I am a sick man now. I cannot accept this appointment for which I have no qualifications. You, Mr. President ought not to ask me to do it. Pray relieve me by saying you will withdraw it. I repeat, I cannot! I will not accept it.'

“The President arose from his chair, approached Mr. Fessenden and threw his arm around his neck. It may seem ludicrous, but as I saw that long and apparently unstiffened limb winding like a cable about the small neck of the Senator from Maine, I wondered how many times the arm would encircle it. The President’s voice was serious and emphatic, but without any assumption of authority as he said: ‘Fessenden, since I have occupied this place every appointment I have made upon my own judgment has proved to be a good one, I do not say the best that could have been made, but good enough to answer the purpose. All the mistakes I have made have been in cases where I permitted my own judgment to be overruled by that of others. Last night I saw my way clear to appoint you Secretary of the Treasury. I do not think you have any right to tell me you will not take the place. I believe that the suppression of the Rebellion has been decreed by a higher power than any represented by us, and that the Almighty is using His means to that end. You are one of them. It is as much your duty to accept, as mine to appoint. Your nomination is now on the way from the State Department and in a few minutes will be here. It will be in the Senate by noon, you will be immediately and unanimously confirmed, and by one o’clock to-day you must be signing warrants in the Treasury.’

“Mr. Fessenden was intellectually a strong man, one of the last men to surrender his own judgment to the will of another, but he made no effort to resist the President’s appeal. He cast his eyes on the floor and murmured, ‘well, perhaps I ought to think about it,’ and turned to leave the room.

“‘No,’ said the President, ‘this matter is settled here and now. I am told that it is very necessary that a Secretary should act to-day. You must enter upon your duties to-day. I will assure you that if a change

becomes desirable hereafter, I will be ready and willing to make it. But, unless I misunderstand the temper of the public, your appointment will be so satisfactory that we shall have no occasion to deal with any question of change for some time to come.'

"At this point the conversation terminated, and all the persons present separated. The result is well known. Mr. Fessenden's appointment was entirely satisfactory to the people. The affairs of the Treasury went on so smoothly that no change in the financial policy of Secretary Chase was attempted; and from this time until the resignation of Mr. Fessenden, there was no longer any friction between the Treasury Department and the Executive."

When Daniel Webster was at the height of his fame, he made a tour of the Middle and what were then the Western States. This was in 1837, and although the great statesman had the flower of the whole country to choose from, in the selection of a companion, he chose Mr. Fessenden, who was then but thirty years of age. This historical fact is one of the strongest evidences of the high regard in which Mr. Fessenden was held at the very commencement of his brilliant political career. In his eulogy of Mr. Fessenden, Senator Garrett Davis, of Kentucky, spoke of Mr. Fessenden's visit to his native State in company with Mr. Webster, and of the entertainment of the distinguished party at Ashland, the beautiful home of Henry Clay. Mr. Clay was strongly and favorably impressed with the ability of Mr. Webster's youthful companion, to whom he was ever afterward a warm and devoted friend.

Mr. Fessenden was somewhat severely censured for his vote upon the guilt of President Andrew Johnson; but it was only like the shadow of the summer cloud upon a fair pastoral landscape; temporary and evanescent. In the calm light of history, praise is also be-

stowed upon those who voted with him. His words on that occasion are a greater monument to his manhood and spotless honor than brass or the chiseled marble. In the opinion which accompanied his vote he declared that the President was not on trial before the people, but before the Senate, and that popular opinion demanding his conviction should be disregarded. He quoted from Lord Eldon upon the trial of the Queen: "It is the duty of those upon whom a judicial task is imposed to meet reproach, and not to court popularity. The people "he concludes," have not taken an oath to do impartial justice according to the Constitution and the law. I have taken that oath."

In the ranks of debaters no one of his colleagues surpassed him. There was no labored effort in his style. He was calm, dignified, impressive, and a master of terse, pure English. The fault was charged to him in his early days in Congress of too copiously illustrating what he intended to convey to the minds of his hearers. He attributed the cause of the criticism to his legal work in Court before a jury. He said: "I always tried to adapt my argument to the understanding of the dullest man of the twelve."

Years before he died he overcame the fault. Those who have listened to him when in the prime of his greatness, will only remember how lucid his arguments were; how accurately he reasoned; how gentle his intonation; how beautiful his expression of ideas. Personally, no man who ever occupied a seat in the United States Senate, was his superior in all that constitutes honor, purity and ardent patriotism. Cool under every contingency, no ephemeral passion in debate could disturb his equanimity of mind. He was the most conservative of men in all that was demanded of him in his high office and he detested the demagogue.

Senator Fessenden died at his unostentatious home,

in Portland, Maine, on the 6th of September, 1869. The immediate antecedent cause of his relatively early death, he was only sixty-three, was that strange outbreak of sickness at the National Hotel, in Washington, D. C., the evening before the inauguration of President Buchanan. At the time many of the most distinguished men of the country were attacked, some of whom died. Mr. Fessenden was among the number of those who recovered. His originally strong and vigorous constitution was shattered, however, and he was never really a well man again. His great mental powers were soon regained after the curious attack, but he was injured permanently.

His eulogists both in the House and Senate, where he had been for such a long period a shining light, during the darkest hours of the Republic, were many. Mr. Sumner and Mr. Fessenden were never cordial in their relations while in the Senate, but when Mr. Fessenden passed beyond the portals of the Senate Chamber forever, his colleagues paid tributes to his memory full of tenderness and emotion, replete with classical allusion.

Mr. Fessenden possessed talent which served him at the very outset of his life. He had hardly been admitted to the Bar before he stepped to the front of his profession. He was forced into office at an age when he was just eligible under the Constitution. To the world he was not gracious, perhaps, but to the limited number of friends whom he gathered around his board, he was the most genial of companions. In his family he was a model of kindness, a most affectionate father, and as long as his posterity worships at the shrine of honor and virtue, his name will not perish, nor its luster fade away.





*David Bridges*

## DAVID DUDLEY FIELD.

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THIS eminent lawyer was born in Haddam, Connecticut, on the 13th of February, 1805. His father, for whom he was named, graduated from Yale College in 1802; studied for the ministry, and in 1804 settled in Haddam, where he continued to preach for fourteen years. He then received a call from Stockbridge, Massachusetts, which he accepted, remained there until 1837, when he returned to his old parish, there passing the last fourteen years of his active ministry. At the age of seventy-one he removed again to Stockbridge, where he died on the 16th of April, 1867, one of the most highly respected and venerable ministers of all New England. His sons, David Dudley, the subject of this sketch, Stephen J., Cyrus W., and Henry M., have attained eminence, and rank with the foremost Americans of the country.

David Dudley Field entered Williams College in 1821, was graduated in 1825, and on the 25th of April of that year commenced to read law in the office of Harmanus Bleecker in Albany. Young Field remained only a few months, on the 10th of September going to New York, where he became a student with the firm of Henry D. and Robert Sedgwick. The first effort of his student life was to make himself master of the practice, and so hard did he work, that, as he has said, "If there was anything which I did understand it was the practice at common law and in equity as then established in the courts of New York." The extremely technical character of the whole system impressed him from the begin-

ning; he could see that it was not necessary and thought that it was injurious. The ideas of the young student upon this subject were strengthened by the opinion of his teachers, particularly that of Mr. Henry D. Sedgwick, who having first practiced law in Massachusetts, looked upon the system of New York as absurdly technical and embarrassing. Two works of very different character, which fell into Mr. Field's hands about this time, tended to the same result. One was Livingston's "Report of a Code for Louisiana," the other "A Discourse on the History and Nature of the Common Law," delivered before the New York Historical Society by William Sampson, in December, 1823, and republished with other papers under the title, "On Codes and Common Law." Neither Mr. Field's student life nor the first years of his practice in the profession, afforded him an opportunity for the exercise of his desire to improve the law itself.

He was admitted into the ranks of attorneys in March, 1828, and immediately entered into partnership with his preceptor, Mr. Robert Sedgwick. With him he remained associated in the practice until the spring of 1835, at which date the partnership was dissolved, Mr. Field opening an office by himself. The next year, having lost his wife, for consolation and to divert his mind from the terrible blow, he traveled abroad. He visited all of Great Britain, a portion of the Continent, examined the English Courts, the Civil law and the French Codes, and relates that they did not tend to increase, but very much lessen, his respect for our technical system.

On his return to the United States, in the summer of 1837, he resumed the practice of law, and began seriously considering what he could do for its improvement. His first public effort in this direction, was a letter to Gulian C. Verplanck, published in 1830, on the "Reform of our Judicial System." After its appearance he went to Albany and addressed a committee of the Legislature on the subject.

In the fall of 1841, Mr. Field sought and obtained the Democratic nomination for the Assembly of New York, with the express purpose of introducing law reform measures into the Legislature.\* He was defeated through the interference of Bishop Hughes in his opposition to the public school system, then prevailing in New York, which he wished to subvert. Mr. Field then contented himself with preparing the draft of three bills, to be introduced by Mr. O'Sullivan, his colleague in the candidacy, which he accompanied by a long letter in explanation of their provisions. The bills were introduced, but the Judiciary Committee, to which they were referred, did not adopt or recommend them.

The calling of a Constitutional Convention, pursuant to an act of the Legislature of 1845, gave Mr. Field a new opportunity before the delegates were elected, and in January, 1846, he wrote and published in the New York *Evening Post* a series of articles on "The Reorganization of the Judiciary." These were collected in pamphlet form and largely circulated. He desired to obtain a seat in the Convention with a view to promoting law reform, but had become unpopular because of his hostility to the annexation of Texas, and the extension of slavery, so it was an impossibility to get a nomination from the Democratic party, the only one in which a candidate could expect to be elected. He was forced to content himself with influencing the Convention outside of its walls, as his voice could not be heard within, which he did to the utmost of his power, by conversation and correspondence with its members and by articles in the newspapers.

The Convention met on the 1st of June, and during the whole summer, Mr. Field was indefatigable in his efforts to bring about the reforms he had set himself to accomplish. The New York *Evening Post* alone had nine or ten articles relating to different parts of the Constitution.

The result of the Convention's labors was submitted to the people and adopted at the ensuing November election. It contained two law-reforming provisions, one in the first article aiming at a general Code, and the other in the sixth article aiming at the reform of the practice, both to be set in motion by appointments of the Legislature. These salutatory measures owed their existence to the voice and pen of Mr. Field.

In anticipation of the action of the Legislature, he published on the 1st of January, 1847, a little treatise of thirty-five pages, entitled, "What shall be done with the Practice of the Courts? Shall it be wholly reformed? Questions addressed to Lawyers," This treatise was followed up by a Memorial to the Legislature before the passage of the act by that body, and to which he procured the signatures of Vice-Chancellor McCoun, Charles O'Connor, E. P. Hurlbut, F. B. Cutting, Theodore Sedgwick, James J. Roosevelt, Joseph S. Bosworth, Erastus C. Benedict, and forty-three other lawyers of New York. The Memorial was in these words:

*"To the Senate and Assembly of the State of New York:*

"The memorial of the undersigned members of the Bar in the City of New York, respectfully represents, that they look with great solicitude for the action of your honorable bodies in respect to the revision, reform, simplification and abridgment of the rules and practice, pleadings, forms and proceedings of the courts of record. They are persuaded that a radical reform of legal procedure in all its departments, is demanded by the interests of justice, and by the voice of the people; that a uniform course of proceeding in all cases legal and equitable is entirely practicable, and no less expedient; and that a radical reform should aim at such uniformity, and at the abolition of all useless forms and proceedings.

"Your memorialists, therefore, pray your honorable bodies to declare by the act appointing Commis-

sioners, that it shall be their duty to provide for the abolition of the present forms of action and pleadings in cases of common law, for a uniform course of proceeding in all cases, whether of legal or equitable cognizance, and for the abandonment of every form or proceeding not necessary to ascertain or preserve the rights of the parties."

The Memorial was presented to the Legislature, and a section introduced into the pending bill in accordance with the Memorial, except that the word which Mr. Field had written "every" was by an error of the printer made to read "any."

Naturally, Mr. Field's name was brought forward in connection with the appointment of Commissioners; but the conservative feeling was too strong; he was too radical, and Mr. Nicholas Hill received the appointment instead. The Commission, consisting of Mr. Loomis, Mr. Graham, and Mr. Hill, was formally established by a law passed on the 8th of April, 1847. The Commissioners could not agree, however, in carrying out this provision and Mr. Hill resigned in September. By that time the feeling of radical reform had been strengthened, and Mr. Field was appointed in Mr. Hill's place by a resolution of both Houses, passed on the 27th of September, 1847. In the meantime Mr. Field had published "Some Suggestions respecting the rules to be established by the Supreme Court," designed to effect a considerable reform in the pleadings and practice. Upon the reorganization of the Commission, it went to work in earnest, and on the 29th of February, 1848 reported to the Legislature the first installment of the Code of Civil Procedure. This was enacted on the 12th of April 1848 with very little change, and went into effect on the 1st of July. It was, however, but an installment of the whole work contemplated, and the residue was reported from time to time in four different re-

ports, until the 1st of January, 1850, when completed Codes of Criminal Procedure were submitted to the Legislature, and these two works covered the whole ground of remedial law.

The design of the new system of Civil Procedure was to wipe out the distinction between the forms of action, and between legal and equitable remedies in order that all the rights of the parties in relation to the subjects of litigation could be decided in a single action, instead of dividing them, as formerly, between different suits. This system has since been adopted in Ohio, Kentucky, Missouri, Minnesota, California, Oregon and other states and territories, twenty-four in all, and has been substantially followed by Great Britain and many of her dependencies.

The other Commission, called the Code Commission, which had the whole body of substantive law in charge, broke down, and the law appointing it was repealed on the 10th of April, 1850. In August of that year. Mr. Field went abroad with his family, left them in Rome, and returned to New York in December. While in England, Mr. Field had an interview with Lord Brougham, and he was also warmly received by the Law Amendment Society. The former commended the efforts made for the fusion of law and equity, but doubted whether it could ever be effected in England. He soon changed his mind, however, for in the following spring Mr. Field was shown a letter from him, written to London, from Cannes, in which he said that sooner or later, fusion was sure to be adopted in England.

During the same month of Mr. Field's return to New York, December, 1850, he published in the *Evening Post*, five articles on the "The completion of the Code." These were designed to promote the immediate consideration by the Legislature of the two Codes of Procedure which had been reported complete. His efforts in this

direction were, however, unsuccessful. In May of 1851, he rejoined his family in Europe, and traveled with them over a greater part of the Continent, and into Egypt and Palestine. While in England, on his return home, a dinner was given to him at the London Tavern, by the members of the Law Amendment Society, an account of which was published in the *Morning Chronicle* the next day, December 22, 1851. Robert Low, who has since become so famous, was one of the speakers and his speech contained many flattering expressions regarding the Society's guest, among which were: "He trusted that his honorable friend Mr. Field, would go down to posterity with this glory; that he had not only essentially served one of the greatest countries in the states of America, but he had also provided a cheap and satisfactory Code of law for every colony that bore the English name. Mr. Field, indeed, had not squared the circle; he had not found out any solid which answered to more than three denominations; he has not discovered any power more subtile than electricity, nor one that would bow with more docility to the service of man than steam. But he has done greater things; he has laid the foundations of peace, happiness and tranquility, in the establishment of a system which would make law a blessing instead of a scourge to mankind. He believed that no acquisition of modern times—if he rightly understood what had been done in the State of New York—he believed that no achievement of the intellect was to be compared to that by which Mr. Field had removed the absurdities and the technicalities under which New York, in common with his country and the colonies, has so long groaned." And again: "As to the colonies, he could only repeat that he trusted the example of New York would not be lost upon them. While England was debating upon the propriety of some paltry reforms in the administration of law, a great master in the art of ad-

ministrative reform had risen there in the person of his distinguished friend, Mr. Field, and had solved the problem which they in England were timidly debating. America had a great future before her, in the establishment and diffusion of the arts of peace. Let them leave to others—to absolute government—to have their subjects shot down in the streets rather than wait even for the headlong injustice of a court-martial; but let it be the lot of England, hand in hand with America, to lead the way in the arts of jurisprudence, as well as in other arts—let them aim at being the legislators and pacificators of the world.”

In January, 1852, Mr. Field returned to New York only to encounter continual and increased hostility to the Code, and to any attempt at its completion. With his usual determination and energy, however, he abated neither his efforts nor his hopes. In July of that year he published a pamphlet entitled “The Administration of the Code,” the first of a series of law reform Tracts, to which he gave this introduction :

“What need is there of more efforts by law reformers? Has not law reform got so firm a foothold as not to need further aid? Were the questions of a friend to whom the plan of publishing a series of Law Reform Tracts was mentioned. The answer was this: ‘It is very true that the reforms we have already obtained cannot be undone, nor can the further progress of reform be finally stopped, but it may be injuriously delayed. We may help to give it a true and proper direction, and push it on to its just results. There remains a great deal yet to be done. That portion of the Code of Procedure which has not been considered by the Legislature, must be speedily acted upon. Certain reforms in the law of rights must be effected, and we must have a complete Code of the whole body of our laws. To promote these objects, is the purpose of these tracts.’”

This Tract was followed in the same year by two others, one entitled "Evidence on the Operation of the Code," and the other "Codification of the Common Law."

From that time to 1855 Mr. Field constantly watched and urged forward the completion of the Code in New York and its adoption in other States. In the session of 1853, he procured the whole Code of Civil Procedure, with slight changes, to be reported for passage by a Committee of the Assembly, and in like manner, during the session of 1855, the whole Code of Criminal Procedure. In January, 1854, he drew a Memorial to the Legislature in favor of the passage of a law to admit the testimony of parties to actions. In March of that year he delivered an address to the graduating class of the law school in the University of Albany, in which he endeavored to enforce the necessity of reforms in the law. Soon after this address, a bill was introduced into the Legislature to reorganize the Code Commission, one of its provisions being that Mr. Field should be one of its Commissioners, but the whole measure was sharply opposed and finally defeated. Then Mr. Field entered the paths of an author again, publishing, the same year Law Reform Tract number four, on "The Competency of Parties as Witnesses for Themselves," and at the beginning of the following year, in January, 1856, Law Reform Tract number five, being "A Short Manual of Pleading under the Codes."

Not until the 6th of April, 1857, a year afterward, were Mr. Field's efforts to resuscitate the Code Commission successful. An act, the whole of which was prepared by him, was then passed, appointing Mr. Noyes, Mr. Bradford and himself Commissioners, "to reduce into a written and systematic Code the whole body of the law of the State, or so much and such parts thereof as shall seem to them practicable and expedient, excepting always such portions of the law as have already

been reported upon by the Commissioners of Practice and Pleadings, or are embraced within the scope of their reports." The Commission was required to report at the next session of the Legislature a general analysis of the projected Codes, and at each succeeding annual session, the progress made to that time. As fast as any part of the draft was prepared it was to be distributed among the judges, and others for examination, and afterward to be re-examined, with the suggestions made, and finally submitted to the Legislature, but no compensation whatever was to be allowed to the Commissioners for their services.

The first act of the Commissioners after their appointment, was to prepare the analysis prescribed by law. Mr. Noyes undertook to prepare that for the Penal Code, and Mr. Field the rest; that is to say, the Analysis of the Political and Civil Codes. After finishing them they went to work on the Codes themselves. The Political Code was the first completed, and was prepared under Mr. Field's own supervision, assisted by Mr. Austin Abbott. The first draft was sent out on the 10th of March, 1859, and, after a re-examination, the revised and completed work was submitted to the Legislature on the 10th of April, 1860. During the interim, Mr. Field went to Chicago and delivered there an address before the law school of the University, on the 21st of September, 1859.

On the 16th of April, 1860, at Mr. Field's suggestion, a provision was introduced into the act amending the Code of Civil Procedure, authorizing the Commissioners of the Code to prepare an appropriate book of Forms. This was prepared in the same manner as the three Codes; first a draft, or as in this case, two successive drafts being circulated, and then the revised work was reported to the Legislature on the 30th of March, 1871. This laborious work was also done under Mr. Field's supervision assisted by Mr. T. G. Shearman. The

first draft of a portion of the Civil Code was sent out on the 11th of March, 1861; then a draft of the whole was distributed on the 5th of April, 1862, and that of the Penal Code on the 2d day of April, 1864. The full draft of the Civil Code was prepared under Mr. Field's supervision, assisted by Mr. Fuller, Mr. Austin Abbott, Mr. B. V. Abbott, Mr. Stone and Mr. Shearman. The draft of the Penal Code was prepared under the supervision of Mr. Noyes, with the assistance of Mr. B. V. Abbott; then it was read over, section by section at meetings of all the Commissioners, and amended by them. The Political and Civil Code was left entirely to Mr. Field, with the exception that Mr. Bradford prepared a first draft of that portion which related to the estates of deceased persons. After eight successive reports to the Legislature, the Commission submitted their ninth and final report on the 13th of February, 1865. This was Mr. Field's sixtieth birth-day, at which time the Penal Code complete was laid upon the tables of the members of the Senate and Assembly, referring them to the Civil Code complete in the hands of the printer. The printing of the latter was not actually completed until the fall of that year.

For eighteen years Mr. Field thus gave his talents and valuable time to law reform in the State of New York, and with the exception of the first two years, he received no compensation whatever, but on the contrary, had the expense of his assistants to pay out of his own pocket, a sum aggregating more than \$6,000. Having finished his great work, the Code of National Law, as it may be properly called, he then turned his thoughts toward a Code of International Law. The method of its initiation was this: He attended the meeting of the "British Association for the Promotion of Social Science," held at Manchester in September, 1866, and brought the subject before that body by an address, in which he suggested the appointment of a committee to prepare and

report the outlines of an International Code. The suggestion was cordially received, and a committee was appointed consisting of the following gentlemen : For England, George Denman, now Judge of the Common Pleas, Chairman ; Lord Hobart, T. E. Headlam, Sir Travers Twiss, George Shaw Lefevre, W. T. S. Daniel, T. Chisholm Anstey, George W. Hastings, W. S. Cookson, John Westlake, Secretary ; for the United States, David Dudley Field, William Beach Lawrence ; for France, M. Berryer and M. Desmarest ; for Germany, Baron VonMittermeier, Baron Franz Von Holendorff, Doctor R. Von Mohl ; for Italy, Count Sclopis and Signor Ambrosoli ; for Russia, Professor Katchenowsky ; for Belgium, Professor Hans.

Mr. Field then prepared an Analysis which, he laid before the English members of the Committee at a meeting held in London. The Analysis presented by him was approved and accepted, and the first draft of the work divided among the members, with the understanding that they should interchange their respective portions, and then meet for the revision of the whole. It was a difficult matter for Mr. Field to do this to advantage so long as he was separated from his American colleagues by the Atlantic ocean, and he determined to prepare and submit to them a draft of the whole work, hoping that they would do the same. The result was the "Draft Outlines of an International Code," which has been published. This was Mr. Field's own work, with the assistance of Mr. Austin Abbott, Mr. Stone and Mr. Wilds, except that President Barnard prepared the Titles on Money, Weights and Measures, Longitude and Time and Sea Signals. During its progress Mr. Field visited Europe once, for two or three months, to attend another meeting of the British Association, which was held at Belfast in September, 1867, and while there he delivered an address on "The Community of Nations."

In Mr. Field's library will be found twelve printed volumes, which contain (1) The Political Code complete, and the Third Report of the Code Commission; (2) The Civil Code complete; (3) The Penal Code complete; (4) The Code of Civil Procedure complete; (5) The Code of Criminal Procedure complete; (6) The Book of Forms complete, and the Fourth Report of the Code Commission; (7) the First, Second, Third, and Fourth Reports of the Practice Commission; the Amendments first made to the Code of Civil Procedure, the Supplement to that Code, the First and Second Drafts of the Code of Criminal Procedure, and two special Acts reported in connection with both the Codes of Civil and Criminal Procedure; (8) the First, Second, Fifth, Sixth, Seventh, Eighth, and Ninth Reports of the Code Commission, the First Report of the Political Code, and the First and Second Drafts of the Book of Forms; (9) the Draft of the Penal Code, and the First and Second Drafts of the Civil Code; (10) Auxiliary Tracts, namely, the Letter to Verplanck, the Appendix to the report of the Judiciary Committee, concerning his draft bills presented through Mr. O'Sullivan, with the explanatory Letter, "The reorganization of the Judiciary," "What shall be done with the Practice of the Courts?" "Suggestions respecting Rules of Court," "The Completion of the Code," the five Law-Reform Tracts, the Address before the law school at Albany; that before the law school at Chicago, and a report drawn by him on the Causes of Delay in Courts; (11) the First Draft of the Code of Civil Procedure, in folio; and (12) the "Draft Outlines of an International Code."

Mr. Field has since been hard at work continuously. He has attended many of the annual meetings in Europe, of the "Association for the Reform and Codification of the Law of Nations." Two volumes published by the Appleton's, in 1884, entitled, "Speeches, Arguments

and Miscellaneous Papers of David Dudley Field," contain a record of his great work up to that time, and a third one soon to be published, contains his labors to date.

What is here quoted is, of course, a mere sketch of the herculean labors Mr. Field has performed in this direction during the long years of his busy life. Addresses almost without number have been delivered before societies and associations, and at last his work is finished. In the golden days of his full years he may well look back with surprise at what he has accomplished; the difficulties he had to overcome, and the little encouragement and assistance he has received. At almost every step it appears as if some impediment was laid across his path; he was violently opposed in everything; his life was a continual warfare, his adversaries changing their tactics with their circumstances. When they were foiled in attacking his work, they attacked him personally; they called him visionary, agitator, self-seeker, but this was to be expected, when he undertook such radical changes in the face of the most conservative of professions. But he has little reason to complain of the number or violence of his adversaries, who finds himself victorious in the end. One lesson, as he himself says, he might have learned by reading, but which has come to him through experience, and that is: "He who attempts reform must rely upon himself, and that all such enterprises have received their start and impetus from one, or at most a very few persons."

As a Law-Giver and Law-Reformer, he will be judged by the good and wise while he lives and long after he shall have passed away, for the service he has rendered for universal justice and to the cause of human progress and civilization.





*Stephens. Fells.*

## STEPHEN JOHNSON FIELD.

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THIS distinguished jurist, for years the head of the profession in California, is now one of the Associate Justices of the Supreme Court of the United States. Though a Democrat, he was elevated to that exalted position by President Lincoln. The following sketch of his life is printed by permission of the Lawyers Co-operative Publishing Company. We are guided by the wishes of Judge Field in presenting this sketch in lieu of a more extended one :

“Stephen Johnson Field, son of the Reverend David D. Field, D. D., was born at Haddam, Connecticut, November 4, 1816. In 1819 the family removed to Stockbridge, Massachusetts, where he spent ten years of his boyhood.

“In 1829 he accompanied his sister to Asia Minor, her husband, the Reverend Josiah Brewer, having undertaken an educational mission to the Greeks. He remained two years and a half in the east, chiefly in Smyrna and Athens, and learned to speak and write with ease the modern Greek language. He entered Williams College in 1833, and graduated in 1837 with the highest honors of his class. In 1838 he began the study of law in the office of his brother David Dudley Field, in New York, and in 1841 became his partner, and so remained for seven years. In 1848 he traveled extensively in Europe. Shortly after his return he sailed for California, and arrived in San Francisco December 28, 1849. On the 18th of January following he was chosen Alcalde of Marys-

ville. Under the Mexican law the Alcalde was an officer of very limited jurisdiction, but in the anomalous condition of affairs in California at the time he was called upon to exercise and did exercise very great power, both in civil and criminal matters and as an executive officer. Alcalde Field accordingly administered justice, punished crime, and made and enforced necessary police regulations until the election and appointment of officers under the new Constitution.

“He was elected to the Assembly of the second Legislature, which was the first one chosen after the admission of California into the Union, and was placed on the Judiciary Committee. He framed the laws creating the judicial system, regulating the Civil and Criminal Practice, defining the duties of sheriffs, creating the system of conveyancing and registry, and defining the rights and duties of attorneys and counselors. The Civil and Criminal Practice Acts were modeled upon the Codes of the New York Commission, then recently reported to the Legislature of New York. Of these, however, over three hundred sections were redrawn to suit the Constitution and conditions of California and over one hundred new sections were added. Among the new sections of the Civil Practice Act was one providing for the admission, in mining cases, of evidence of the customs, regulations and usages of miners in the vicinage of the claim, and declaring that when they were not in conflict with the Constitution and laws of the State or of the United States, they should govern the decision of the action; thus leaving the development of the mines to the regulations established by the miners themselves—a principle that has been adopted in other mining territory, and by the United States. He also incorporated in the same Act a provision exempting from force sale under execution, not only the few indispensable articles required for house-keeping which had long been so exempted by the statutes

of every state, but also implements, wagons and teams of a farmer, the tools of a mechanic, the instruments of a surveyor, surgeon and dentist, the professional library of a lawyer and a physician, and the articles used by the miner and laborer in doing their work. This was intended to secure all persons in the possession and use of those things by which, as necessary means and instruments, they could engage in their respective pursuits, and acquire the ability to pay the demands of their creditors.

“From 1851 to 1857 he practiced his profession, and was then elected a Judge of the Supreme Court of the State for the term of six years. He became Chief Justice in September, 1859. The most important of the opinions delivered by him in that Court related to the settlement of land titles, rights to mining claims, and the powers and duties of municipal corporations. He established the doctrine that gold and silver belonged to the owners of the soil in which they are found, and that the precious metals are entirely unconnected with whatever of sovereignty inheres in the State. As the United States originally owned the soil, so it owned all the gold and silver contained in the same, and this ownership passed to and vested in the grantee of the United States and their assigns. This was a reversal of the doctrine previously laid down by the Court, that, as in England the gold and silver in the soil belong to the Crown, so in this country they must belong to the State by virtue of its sovereignty.

“In 1863, before the expiration of his term on the State Bench, Judge Field was appointed by President Lincoln an Associate Justice of the Supreme Court of the United States. The appointment was made upon the unanimous recommendation of the Congressional delegation of the Pacific Coast, then consisting of four Senators and four Representatives, of whom five were

Democrats and three Republicans, all of them Union men. Upon his retiring from the Chief Justiceship of the State, Judge Joseph G. Baldwin, who had been his associate on the Bench for three years, said of him :

“ ‘ He has, more than any other man, given tone, consistency and system to our judicature, and laid broad and deep the foundation of our civil and criminal law. The land titles of the State—the most important and permanent of the interests of a great commonwealth—have received from his hand their permanent protection, and this alone, should entitle him to the lasting gratitude of the Bar and the people.’

“ In the United States Supreme Court he has, for nearly a quarter of a century, born his share of its labors. His opinions, among other things, relate to test oaths, military commissions, confiscations, pardon and amnesty, legal tender notes, legislative power of the insurgent states during the Civil War, protection of sealed matter in the mails from inspection by officials, power of the State to control compensation for use of private property, relations between General and State Governments, powers and liabilities of corporations, interstate commerce, taxation, trusts, character of directors of corporations, and the use of running waters in public lands.

“ Among the more important of these opinions the following may be mentioned: In the test-oath cases, *Cummings v. Missouri*, and *Ex parte Garland*. In cases relating to interstate commerce, and the power of the State concerning it, *Welton v. Missouri*; *County of Mobile v. Kimball*; *Gloucester Ferry Company v. Pennsylvania*; *Sherlock v. Alling*; *Ecanaba v. Chicago*; *Miller v. Mayor of New York*; *Cardwell v. American Bridge Company*, and *Huse v. Glover*. In cases on questions growing out of the Civil War, such as the protection of the officers and men of the United States Army in the enemy's country against civil proceedings for damages,

the attempt of the Confederate states to confiscate debts due the citizens of loyal states, and the extent of liability of the United States for property taken or destroyed, Williams v. Bruffy; Coleman v. Tennessee; Pacific Railroad v. United States; Dow v. Johnson, and the "Tarble Case." In cases on Constitutional questions particularly affected by the Fourteenth Amendment, Barbier v. Connelly; Soon Hing v. Crowley; Missouri Pacific Railway Company v. Humes; Hayes v. Missouri. In cases on State, City and County bonded indebtedness, Pillsbury v. Louisiana; Hartman v. Greenhow; United States v. New Orleans; Broughton v. Pensacola. In cases on patents of the United States for lands and mining claims, Smelting Company v. Kemp; Steel v. Smelting Company. In cases on mining claims and water rights, Jenison v. Kirk; Atchison v. Peterson; Dasey v. Gallagher; on the power of a state to prescribe the conditions on which foreign corporations may do business within its limits, Paul v. Virginia; on proceedings in state courts against non-resident debtors, Pennoyer v. Neff; on the invalidity of contracts for the use of influence with public officials, Oscanyan v. Arms Company; on Federal jurisdiction over lands used for public purposes of the United States Government within the states, Fort Leavenworth Company v. Lowe; on the responsibility of railroad corporations to their employes for injuries inflicted in consequence of negligence of train conductors, Ross v. Chicago and Milwaukee Railroad Company; on protection of sealed matter in the mails, *Ex parte* Jackson, on the exemption of a passenger in a public conveyance from liability for the negligence of the driver, Little v. Haskett, and on the right of the states to swamp and overflowed lands within their limits, Wright v. Rosebery.

"That Judge Field exercises an independent judgment in all cases is attested by his dissenting opinions in the

Slaughter-House Cases ; see also his concurring opinion in Butcher's Union Company v. Crescent City Company ; the Legal Tender Cases ; the Confiscation Cases ; the Sinking Fund Cases, involving validity of the Thurman Act ; the Elevator Case, Munn v. Illinois ; the Virginia Judge case, *Ex parte* Virginia ; the Provost Marshal Case, Beckwith v. Bean ; the Louisiana debt Case, Louisiana v. Jumel ; the Virginia debt Case, Antoni v. Greenhow, and in the Attorney's Case, *Ex parte* Wall ; the Telegraph Case, Pensacola Telegraph Company v. Western Union Telegraph Company ; the Spring Valley water Case, Spring Valley Water Works v. Schottler, and in the Chinese Restriction Case, Chew Heong v. United States.

"Since he has been upon the Federal Bench he has held court in his circuit—consisting of the states of California, Oregon and Nevada—every year except two when he was absent from the country, although since 1869 he has only been required by law to sit in each district of the circuit once in every two years. In going and coming, and in his circuit, he travels nine thousand miles a year, the expense of which he is obliged to bear himself. When the circuit was created an allowance was made by law of \$1,000 a year for his traveling expenses, but in 1871 this was cut off.

"Williams College, in 1867, conferred upon Justice Field the degree of LL. D., and under an election by the Regents of the University of California, he has held since 1869, a professorship of law in that institute. This professorship Justice Field resigned in 1885. He is now one of the Trustees of the Leland Stanford, Junior, University.





*Young Sir.*

## WILLIAM P. FRYE.

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THE "Pine Tree State" has furnished some of the most eminent men in the history of the Nation. They have been distinguished in arms, law, statesmanship and literature. The reader will readily recall such names as Knox, Fessenden, Blaine, Longfellow and John Neal. Of the later generation William P. Frye, an eminent advocate and senator is worthy a place in the biography of great lawyers. His grandfather, was General Joseph Frye, a Colonel in the English army. When the colonies threw off the yoke of the mother country, he chose his portion with the struggling patriots, and rose to the rank of Major-General, in the Revolutionary War. For his eminent services in that great contest, he received a grant of land on which the town of Fryeburg is built and named for the veteran. His son, Colonel John M. Frye, was one of the early settlers of Lewiston. He was largely instrumental in developing the manufacturing industries of the place, and became its most prominent citizen. The repute which Lewiston bears to-day is due in a great measure to his talents, and the devotion of his energies to the place.

William P., his son, now United States Senator from Maine, was born in Lewiston, on the 2d of September, 1831. After attending the common schools of the region, he was graduated at Bowdoin College, in the class of 1850. Immediately after leaving college he entered the law office of the eminent William Pitt Fessenden, in Portland, as a student. He was admitted to the Bar in 1853, at the age of twenty-two.

Shortly after he commenced to practice, he formed a partnership with Mr. Thomas A. D. Fessenden, which continued until the death of the latter. Then Honorable John B. Cotton, now Assistant Attorney General of the United States, became a partner. Later Mr. Wallace H. White, a son-in-law of Senator Frye, was admitted, the firm now being styled, Frye, Cotton & White. The business of these several firms with which Senator Frye had been connected, was extensive and important. The present firm involves the business and affairs of the cotton manufacturing corporations, its mills constituting the principal industry of Lewiston.

Senator Frye was only nineteen years old when he was graduated by Bowdoin. Notwithstanding his extreme youth, he took an active and conspicuous position in the public affairs of his State immediately. Politically he affiliated with the Republican party and has been a zealous supporter of its principles from the beginning of his career.

Senator Frye is endowed by nature with a fine physique, magnificent voice, a logical mind, and quick perceptive faculties. He early gained an enviable reputation as an advocate of ability. He is especially famous for the rapidity with which he is able to absorb and grasp the facts in a case, and the promptness with which he meets any new phase in its development. In the examination of witnesses he particularly excels, possessing that intuition which alone guides the practitioner through these very often perilous waters. The Supreme Court room of his native county, Androscoggin, has frequently been the arena of many a famous trial. As usual in all New England shire towns, these trials generally call out great numbers of eager listeners to the forensic efforts of the learned advocates. This was especially true when it became known that Mr. Frye was to talk to a jury, or was of counsel in an important suit. Many were the

occasions of this character; they were often discussed and anticipated for days as opportunities not to be neglected.

In 1867, when Mr. Frye was but twenty-eight years, old, he was elected Attorney General of the State. It was a rare thing in staid New England, to take up such a young man for such an important office. There, generally, youth is compelled to remain in the back-ground. In the great-hearted West, the converse is the rule. Merit is soon acknowledged, without that distinction of age, which seems to carry a prestige with it in the states east of the Appalachians. In the prominent position of Attorney General for the Commonwealth, it was the incumbent's duty to personally conduct the prosecution of individuals charged with criminal offenses. During Mr. Frye's term, continuing for a period of three years his cases were the most celebrated in the legal annals of Maine.

Although devoted to the profession of law, his talents were of such a character, that he was not permitted by the people to give his entire time to the prosecution of cases in the courts. He was forced into the domain of politics at an early period in his life. He was first elected to the Legislature of the State from his native town, in 1861. Subsequently he represented it for several consecutive terms, and in 1862 was a very conspicuous figure in the Lower House, which Legislature was regarded as the most brilliant, in point of talent, that had ever assembled in the State.

In 1864, Mr. Frye was Presidential Elector. In 1866 he was elected Mayor of Lewiston and re-elected the following year. At the last mentioned date, Mr. Frye, it will be observed, held three important public offices at the same time, Representative in the Legislature, Mayor of his native city and Attorney General of the State!

In 1872, he was elected to represent his district in the Lower House of Congress. He was then but thirty-nine years of age, but immediately upon taking his seat, took rank as a debater. To be sure, he was no novice in the art, having served a stirring novitiate in the Halls of Legislation in his own State. In committee work in Congress, he was an indefatigable laborer. He constantly evinced that indomitable industry which has characterized his life in every sphere he has been called upon to fill.

In 1880, Senator Frye was elected a trustee of his *alma mater*, Bowdoin College. In July of the following year Bates College conferred upon him the degree of LL. D. Eight years later Bowdoin College conferred the same degree upon her distinguished son, and in 1880, he was elected Chairman of the Republican State Committee, of Maine, to fill the vacancy made by the resignation of James G. Blaine.

For six consecutive terms Mr. Frye served in the Lower House of Congress. In 1881, he was elevated to the United States Senate to fill the unexpired portion of Honorable James G. Blaine's term, who had resigned to accept the appointment of Secretary of State, from President Garfield. Senator Frye has been elected twice to succeed himself, his present term expiring on the 4th of March, 1895.

Senator Frye was one of the members of a Congressional Committee that was sent to New Orleans to investigate the election in the State of Louisiana in 1874, and to effect a compromise between the discordant factions, which the Committee accomplished.

While a member of the Lower House of Congress, Mr. Frye's duties involved those pertaining to several important committees. He was Chairman of the Library Committee; served also for several terms on the Judiciary, and Ways and Means. For a long time he was Chairman

of the Executive Committee. It was generally conceded at the time, that he would have been elected to the Speakership of the House in the Forty-Seventh Congress if he had not resigned before it convened, to accept a seat in the United States Senate, to which he had been elevated subsequent to the adjournment of Congress. As has been previously affirmed in the House, Mr. Frye at once became a prominent debater. Especially was this the case on all questions of a purely political nature, for he has ever been a zealous partisan, and an uncompromising champion of the principles of the party to which he belongs. In the discussions of the great National questions, too, he has always taken a leading part. In the vexed problem of the proper distribution of the "Geneva Award," growing out of the "Alabama Claims," he was very earnest. He espoused the cause of the actual losers, and fought on that line of argument through four consecutive sessions in the House, and through one session in the Senate. The bill originally introduced by him in the House, was the one that finally passed, became a law, and the entire fund distributed as he desired, and according to the strict terms of the measure he had so ably advocated.

Since Mr. Frye entered the Senate he has been Chairman of the Committee on Commerce, and also of the Special Committee on Pacific Railroads. He is also a member of the Committee on Foreign Relations and Privileges and Elections. In his official capacity as Chairman of the Committee on Commerce, one of the most important in the Senate, Senator Frye has charge of all matters relating to the general commerce of the whole country, and everything pertaining to shipping as well. So perfect is he in the knowledge of these subjects, that the entire body of Senators have given him their confidence on all questions that arise affecting business of this character, and consequently every measure that

he reports upon favorably and urges, is passed without any difficulty.

Mr. Frye, understanding as well as anyone, perhaps better, the Fishery question, has always taken a leading part in the discussions upon that subject. The condition of affairs at Samoa was brought prominently before the country, principally through his efforts, and he had much to do in the settlement, in a peaceful and satisfactory manner, of the complications arising there.

In 1872, Mr. Frye was placed upon the National Republican Committee. He has been successively re-elected since then, and is one of its most prominent members. He has been a delegate to nearly every National Republican Convention; in that memorable one of 1876, at Cincinnati, where James G. Blaine was nominated by Robert G. Ingersoll in a speech, which, for eloquence, ranks with any in the history of nominations, Mr. Frye seconded Colonel Ingersoll, in an able and glowing tribute to the nominee.

Mr. Frye's speech seconding the nomination of Mr. Blaine on that occasion, gives an idea of his oratory:

"I once saw a storm at sea in the night time; an old ship battling for its life with the fury of the tempest; darkness everywhere; the winds raging and howling; the huge waves beating on the sides of the ship, and making her shiver from stem to stern. The lightning was flashing; the thunders rolling. There was danger everywhere. I saw at the helm a bold, courageous, immovable commanding man. In the tempest, calm; in the commotion, quiet; in the danger, hopeful. I saw him take that old ship and bring her into the harbor, into still waters, into safety. That man was a hero. I saw the good old ship of State, the State of Maine, within the last year, fighting her way through the same waves, against the dangers. She was freighted with all that is precious in the principles of our Republic; with

the rights of the American citizenship, with all that is guaranteed to the American citizen by our Constitution. The eyes of the whole Nation were upon her, and intense anxiety filled every American heart, lest the grand old ship, the State of Maine, might go down beneath the waves forever, carrying her precious freight with her. But there was a man at the helm, calm, deliberate, commanding, sagacious. He made even the foolish man wise. Courageous, he inspired the timid with courage; hopeful, he gave heart to the dismayed, and he brought that good old ship safely into harbor, into safety, and she floats to-day greater, purer, stronger for her baptism of danger. That man, too, was heroic, and his name was James G. Blaine."

Senator Frye belongs to that class of portly men which is generally allied to brain capacity. He has stamped upon his strongly marked features the impress of intellectuality and command of language, indicated by a massive brow and prominent nose. His delivery is not at all constrained, but flows as naturally as water from a perennial spring. His hearers have no fear that he will be at a loss for the proper sentence to express just what he means, though his speech be a prolonged one. He has a reputation also of being an excellent story teller, with which he often regales his brother Senators, who have been driven from the chamber by the prosy diatribe of some uninteresting talk against time.

Mr. Frye is a close student of English literature and the classics, for which latter he has always retained, a love, in contradistinction to so many College graduates, who, the moment they are absolved from the obligations of the recitation room, abandon the beauties of the ancient poets and dramatists for the more practical affairs of life.

Domestic in his tastes, a love of art and all that is beautiful in our cultured civilization, he like most men

possessing similar tastes, is at his best in the sanctity of home, away from the busy cares of statesmanship. There surrounded by a circle of congenial friends, he is a host to whose invitation his many admirers quickly respond.

Senator Frye will hold a place on the scroll of history and in the niche of National fame, equal to the famous men of his State, in whose footsteps he has so prominently and ably followed. He is in the prime of his best ability, not yet having reached the grand climacteric, which the ancients placed at sixty-three. There are many years of usefulness before him, both for the country and his State.







*W. W. Fuller*

## MELVILLE WESTON FULLER.

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FOR the second time in the history of this country New England has furnished a Chief Justice of the Supreme Court of the United States. Though Mr. Fuller is accredited to Illinois, he is a native of Maine. He was born at Augusta, the capital of that State on the 11th of February, 1833. All of his immediate ancestors had been prominent and influential citizens of the place. His grandfather was a lawyer of ability, and adorned the Supreme Bench of Maine, for seven years as Associate and fourteen years as Chief Justice.

Mr. Fuller is now Chief Justice of the United States Supreme Court. He was graduated from Bowdoin College, one of the most important educational institutions in the country, in the class of 1853. Upon completing his college course, Mr. Fuller entered the law office of his uncle, Charles Melville Weston, to begin the study of law. He also attended the law school of Harvard University. In 1855, he commenced the practice in his native town, at the same time devoting his leisure moments to Journalism, occupying the position of editor on a newspaper called the *Age*. In the autumn he was elected as a member of the Common Council, was made its President, and in addition, performed the duties of City Solicitor. Mr. Fuller was at this time but twenty-three years old. His prospects for preferment, politically and professionally, in his native town, were excellent, but he was not satisfied. That "hunger for the horizon," which at some period in their lives comes to all men born

in the East, had taken possession of him, and he determined to seek a broader field for the development of his talents. At the close of the ensuing year, therefore, he resigned his official position in the city government, selecting Chicago as his future home. Settled there his pleasing address, excellent business methods and disposition for work, coupled with his inherent talents, quickly brought numerous clients and a prosperous business.

Two years in the metropolis of the West had scarcely rolled on before Mr. Fuller appeared at the Bar of the Supreme Court of the State as counsel in the case of *Beach v. Derby*, which is reported in the nineteenth Illinois. The ability he displayed in handling this important suit brought him prominently to the front rank of the profession. His devotion to the cause of his client in this case was marked, and his business from that moment increased in a wonderful degree; limited only by his power to give it the attention it demanded. He had more to do than usually falls to the lot of a lawyer in a great city. Reference to the volumes of the Illinois reports, where his cases are to be found in more than a hundred of these books, will confirm the statement. He has left his impress upon the jurisprudence of his adopted State in no uncertain manner.

While a resident of Illinois Mr. Fuller's practice was not limited, with the exception perhaps of admiralty cases. He was not what is termed a criminal lawyer, or a corporation attorney nor was he of counsel in celebrated cases. There was nothing in his practice that gave him a National reputation. He merely had an extensive business, a large number of clients. All this brought him an income beyond the average lawyer of the place. In the Federal Courts of the Western Districts and the Supreme Court at Washington, his work attracted attention and marked him as a lawyer of great abilities. In commer-

cial law and the law of real property, he was admitted to be without a superior in Chicago.

Among his principal cases, the most celebrated of all, perhaps, is what in the history of the jurisprudence of Illinois, is called "The Cheeny Case." The defendant, Mr. Fuller's client, was Bishop of the Diocese, and was charged with canonical disobedience. The suit called out his knowledge of ecclesiastical law, and a familiarity with the writings of the "Father's of the Church" that astonished well trained church members and the Judges before whom it was tried. The argument made by Mr. Fuller at the Bar of the Supreme Court of the State, where it was finally adjudicated, is considered replete with legal knowledge, skill and eloquence.

Coincidences are curious things; in the first case heard by the late Chief Justice Waite on his accession to the Supreme Court of the United States, Mr. Fuller, who succeeded him was of counsel. It was *Tappan v. Merchants National Bank* called in 1874. Since that time to the date of his own appointment as Chief Justice, scarcely a term of the high court passed without his appearance before its Bar as counsel. One of his most important cases before that august tribunal, is known as "The Lake Front Case." It was a famous contest, and Mr. Fuller's part in the wrestle of legal giants at the Bar attracted a great deal of attention among prominent lawyers all over the country.

Politically, Mr. Fuller has always affiliated with the Democratic party. He was a thorough Union man during the War and believed in its vigorous prosecution to the end. He was an ardent admirer and warm personal friend of Stephen A. Douglas. While he was never a politician in the rigid acceptance of the term, long before his elevation to the Supreme Bench, he had withdrawn absolutely from politics. He has ever felt a living

interest in the party to which he belongs, and is a thorough believer in the principles which it advocates.

It will not be out of place here to relate something of the cause which prompted President Cleveland to select Mr. Fuller for Chief Justice. Upon the death of Chief Justice Waite, applications for the vacancy were pressed upon the Executive from nearly every state, until he was almost bewildered on the question of whom it would be best to appoint. It is alleged that Mr. Fuller was urged only by the delegation from his own State. Mr. Cleveland remembered that immediately after his inauguration and many times since Mr. Fuller had called at the White House to pay his respects to him. He also recalled the favorable impression the distinguished attorney from Chicago had made upon him. The President as well, possessed considerable knowledge of the ability displayed by Mr. Fuller in his numerous cases before the United States Supreme Court, and concluded he would vary the manner of such appointments somewhat and elevate a lawyer to preside over the Court who had been extensively engaged in practice before it, and could find no one to suit his purpose better than Mr. Fuller, and hence appointed him.

In 1861, Mr. Fuller was a member of the Convention assembled to revise the Constitution of the State of Illinois. In the deliberations of that body Mr. Fuller took a leading part. He rendered eminent services by his fine legal talent, the result of which is manifested in the excellent fundamental law of that State.

One of the characteristics of Mr. Fuller's legal ability when before the Bar, was his absolute thoroughness in handling his cases. He made a study of them in the most careful manner; looking up all the cases having the slightest bearing, and knew how to apply the law. He possessed a judicial mind in an eminent degree, made up of those perceptive faculties so essential to the suc-

cess of a judge. When before the Bar, he was always ready for the case to be tried, for he had mastered all its intricacies, and was confident of success; but it must not be in anywise understood that Chief Justice Fuller was an ordinary lawyer, whose arguments in the trial of a case were based upon what he could find in the books as precedents. He was a thinker who reasoned from the wellsprings of his own fountain. There was always that element in the character of his legal discussions which left the impress upon the hearer of deep research, scholarship and scrupulous fidelity in the preparation of the case. The domination of the right, rather than to gain a suit through the medium of trickery, and thus defeat the great principle of justice which is presumed to underlie the application of the law, was a prominent characteristic of his practice.

In the court room his manner was that of the dignified counselor, learned in the law, demanding his own and his client's rights; respecting those of the witnesses and the opposing counsel. Harsh words, and a display of passion which sometimes mark reputable advocates, were entirely foreign in his conduct in the management of a case. His efforts to honorably win the cause of his clients were never relaxed until the last resource was exhausted.

Chief Justice Fuller is a scholar, a linguist and a cultured gentleman. In the study of and familiarity, with literature, his knowledge covers a wide range. He is a lover of the ancient classics, conversant with some of the modern languages of Europe, and has brought to the great tribunal over which he presides such attainments that should ever grace the dignity of a court.

In strictly social life Chief Justice Fuller possesses the dignified presence and bearing which characterize the gentleman. Modesty and gentleness, generosity, integrity and an untarnished honor are the mile-posts of his

upright path in the world's journey, where he has ever been faithful to the demands of duty.

Chief Justice Fuller was a recognized leader of the Chicago Bar, which is famous for the talent and ability of its members. In the struggle for supremacy, such lawyers as the venerable Lyman Trumbull, the lamented Emery A. Storrs, and Judge Corydon Beckwith had to be met in the forum, and he who stands that test can well be accredited great legal ability and learning in the profession.

Maine may rightfully claim two of American's most distinguished sons: James G. Blaine and Chief Justice Fuller. Both were residents of the same town for years. They are warm personal friends, and at the inauguration ceremonies of President Harrison sat side by side.

Chief Justice Fuller has never been an aspirant for office since the early days of his life. He has devoted himself to his profession with all the ardent passion of his nature. He is urged very strongly for the Presidency by friends, but pays no attention to such overtures; should the people call him to that exalted office, he would impart the same grace and ability to it that has characterized and popularized his present position.







*William Pitt Rivers*

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## WILLIAM FULLERTON.

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WILLIAM FULLERTON is a native of Orange county, State of New York. He was born in what was then known as the town of Minisink, in that county, in the year 1818. He comes of ante-revolutionary stock, his ancestors having been pioneers in that section of the country in the early days, and encountered many hardships from conflicts with the Indians, his grandmother having been taken prisoner at Wyoming by the Savages, from whom she afterward escaped. His boyhood was passed upon his father's farm. In 1838 he was graduated at Union College, in the same class with the Honorable John K. Porter, who subsequently sat with him on the Bench of the Court of Appeals, of the State.

While in college, Mr. Fullerton, in a great measure, supported himself by teaching during his vacations and a portion of the terms of his college course. For some time he had charge of the Columbia County Boarding School, at Chatham Four Corners, as principal, then one of the leading educational institutions in that section of the State.

After graduation by Union College, Mr. Fullerton entered upon the study of the law at Newburg. He was admitted to the Bar in 1841, and at once commenced the active practice of his profession. During the early part of his professional career, he was made District Attorney of his native county, which position he held for one term. He was soon recognized as one of the foremost men at the Bar in the river counties in which he practiced, and

until his removal to the City of New York in 1852, was constantly engaged in the trial of causes in these counties, appearing upon one side or the other of most of the leading cases.

In 1852 he was induced by Mr. Charles O'Connor to remove to the City of New York, for the purpose of uniting with him in the practice of the law. Mr. O'Connor's proposition of a partnership was made to Mr. Fullerton after the conclusion of an able argument by the latter, in an important and intricate cause, at the general term of the Supreme Court at Brooklyn, in which Mr. O'Connor was opposed to him. Mr. Fullerton decided to accept the proposal and soon after removed to New York City and commenced the practice of his profession there under the firm name of O'Connor & Fullerton.

Soon after the formation of the new firm, Mr. O'Connor was appointed United States District Attorney, and while in that position, employed Mr. Fullerton to prosecute, on behalf of the Government, Captain Daniel Maloney, who had been indicted for murder on the high seas. Maloney was defended by Mr. Ogden Hoffman, then considered the foremost jury advocate and orator of the New York Bar, assisted by Francis B. Cutting, whose eloquence and recognized legal abilities had won for him a reputation scarcely inferior to that of his illustrious associate. By his conduct of this cause, and his masterly argument on behalf of the prosecution, Mr. Fullerton won the commendations of the late Judge Nelson, before whom the cause was tried, and at once established his reputation as a jury lawyer, and thus vindicated Mr. O'Connor's judgment from the criticisms which he had received from the public press, at the commencement of the trial, for withdrawing from the management of so important a case, and intrusting the interests of the Government to the hands of a young lawyer, who was then comparatively unknown in the City of New York.

Upon the expiration of O'Connor's term of office, a new firm was organized, composed of Mr. O'Connor, Mr. Fullerton and Benjamin F. Dunning, the latter gentleman having been one of Mr. O'Connor's assistants while he held the office of United States District Attorney. Mr. Fullerton now became actively engaged in the trial of the causes in New York City, and was soon recognized as one of the leading jurists of the State. He participated in the trial of most of the leading causes of the time.

During the past thirty years Mr. Fullerton is said to have participated in the trial of more causes than any lawyer who ever lived in the City of New York for an equal period of time. He was engaged, upon one side or the other, in most of the litigations recognized at the time as the celebrated causes of the day. His efforts in the Lawrence Will Case, before the general term of the Supreme Court, on the appeal from the decree of the Surrogate rejecting the will, will long be remembered by the Judges who sat at that term, and by his professional brethren who were in attendance at the time of the argument, as one of the ablest forensic efforts ever made in the City of New York. In numerous complicated railway litigations and controversies, which occupied the courts of New York for several years, Mr. Fullerton has borne a prominent part, the management of the interests of one or the other of the contending parties being most always intrusted to him.

In the celebrated case of *Milan v. Graham*, he succeeded in recovering a judgment of \$74,000 as damages for malicious prosecution. This is believed to be the largest verdict ever given in this country by a jury in such a case, and is believed to be the largest ever given in any country for a similar cause of action.

In the summer of 1868, while absent in the woods of Canada on a fishing excursion, he was appointed by Gov-

ernor Fenton, Justice of the Supreme Court, to fill a vacancy. By this appointment he became *ex officio* a member of the Court of Appeals, and sat in that Court during the continuance of his term of office. His opinions, while sitting as a member of that Court, reported in thirty-seven and thirty-eight New York Court of Appeals Reports are convincing evidence of, not only his acumen, but his gracefulness of diction. At the election following his appointment, he was elected without opposition for the unexpired term of a deceased justice, after the expiration of his term of office, he declined a re-nomination, and at once resumed the practice of his profession.

During his active practice of over forty years in the City of New York, Judge Fullerton has been constantly associated with or opposed to the leading lawyers of the State. He has well sustained the reputation which he has acquired, of being one of the foremost *nisi prius* lawyers of the country. He is a most effective advocate, very quick, always ready, never taken by surprise, seizes at once upon the controlling facts and features of his case, and presses them with resistless force and energy upon the jury, never wearying them with petty details or considerations. As a cross-examiner, he has the reputation of having few equals, and no superior.

His versatility is exhibited in the variety and character of the cases in which he has become conspicuous and is almost exhaustless. Cases involving intricate questions of commercial law, will cases, trusts, real estate and criminal law all seemed equally easily handled and mobile to his mental grasp, so that it would be difficult to particularize and say that any particular class of cases was his specialty.

One of the most famous *causes celebre* of the present age in this country, is the well remembered case of Tilton v. Beecher, in which one side or the other sought

to employ all the best legal talent which the Bar of New York could supply. Representing Henry Ward Beecher, were Evarts, Porter, Tracy, Shearman and others; for Tilton, though several other prominent counsel were employed, including Pryor, Morris and Pearsall, the Bar and the public recognized that the burden of the conduct of the case in Court, during the six months it was on trial rested upon the shoulders of the late William A. Beach and Judge Fullerton. These two men, so different in manner and temperament and methods were so equally balanced in the essentials to the able conduct of so important a case, that they presented an invulnerable front to their adversaries.

The duty of presenting the case to the Court and jury and the discussion of questions of evidence devolved more largely upon Mr. Beach while that of cross-examining the witnesses called by the opposition, fell to the share of Mr. Fullerton. The notoriety which this case achieved, the report of the trial being fully given by the press throughout the country, at once attracted attention to Mr. Fullerton's marvelous ability in getting the truth from the mouths of the witnesses of his adversaries, though at the Bar of New York this quality had been fully recognized long before that occasion. The chief attribute which rendered Mr. Fullerton's success in this field so complete was his wonderful and unfailing memory, his patience and freedom from all irritation and annoyance, the rare and almost unparalleled faculty of putting the witness at ease and securing his confidence, and then decoying him into the belief that the cross-examining counsel's mind was on one subject while he had another mentally concealed for the purpose of exposing the untruthful witness. In the long and arduous trial of this cause he never failed to fully meet its requirements. The cross-examination of Henry Ward Beecher by Mr. Fullerton was regarded at the time by

the general consensus of professional opinion as the best illustration of that art that had occurred within the memory of all who heard it, and was especially creditable to Mr. Fullerton owing to the transcendent mental calibre of his antagonist, who has always been regarded as not only one of the greatest preachers but strongest minds of the country, and the overwhelming importance of the issue to him.

It was as such advising counsel that his services were most valuable in what have become known as the "Boodle Cases" in the City of New York.

These cases were indictments against twenty-two Aldermen of the city, and the officers of certain railroad companies, charged with having bribed the Aldermen to grant the consent of the city to the laying of a railroad on Broadway by the payment to the Aldermen through an agent of the large sum of \$500,000. When an exposure was made of this transaction by an investigation through a committee of the Senate of the State of New York, popular clamor for the punishment of the accused was at its height; the press both in its news and editorial columns demanded day by day that the public authorities should set in motion the machinery of the criminal law for the punishment of the accused. In this state of public excitement the District Attorney's of New York procured indictments against all of the Aldermen whose names had been mentioned in connection with the affair and of all the railroad officials. A large number of leading criminal lawyers of New York were at once employed by the defendants and although Mr. Fullerton was in attendance in Court as counsel in several of the trials and was consulted in all of them, he refrained from taking any active part therein. His counsel and advice, however, were sought and acted upon. A prominent characteristic, his extreme modesty, forbade his claiming the professional credit to which he was justly entitled in

these and many other cases in which he has been engaged.

Among the recent noted cases with which Mr. Fullerton has been connected was the case of Campbell v. Arbuckle, or as it has been termed by the press of the country, "The Baby Bunting Case," in which one of his associates in the Sharp case was the opposing counsel. This was an action for breach of promise of marriage, brought by Miss Clara Campbell, of Ohio, against Charles Arbuckle, a wealthy coffee merchant of New York City. In this case the verdict obtained by Mr. Fullerton was \$45,000, being the largest amount ever recovered in an action of that nature in this country. The verdict was upheld by the court of last resort in the State, and finally paid in full.

For many years past Mr. Fullerton's principal recreation has been the somewhat costly luxury of farming. Soon after the close of the war he purchased a large tract of land in Fairfax county, Virginia, near the historic field of Bull Run. At the time of his purchase the whole country in that section was literally worn out. The system of agriculture in vogue in Virginia, for the period prior to the war, was to raise the same crop year after year, never resorting to fertilizers, and in that way the soil had become impoverished and unproductive. Mr. Fullerton, however, by the judicious application of suitable stimulants to the soil, in a few years brought up the land to a paying condition, and now, where rifle pits and long lines of retrenchments once only met the eye, there are evidences of intelligent and successful cultivations. His farm is his pride, and justly so. He is an enthusiast on the subject of agriculture, and with all his devotion to the law, finds time frequently to visit the farm, and get relief from the harassing duties of his profession.

In addition to his abilities as an advocate, Mr. Fullerton is an interesting *raconteur*, and it is delightful to

listen to his legal anecdotes. Aside from his unflinching good humor and amiability, his quickness of retort and powers of repartee have been among his marked characteristics. Upon one occasion, during a heated discussion his opponent, who had made himself offensive, to emphasize a proposition advanced by him, exclaimed, "If the Court please; I have learned that two and two make four." "That must be very gratifying, as well as surprising to your friends," was the cool reply of Mr. Fullerton, and the discomfited counsel resumed his seat amid the subdued laughter of the bar and the grim smile of the Presiding Justice.

Upon another occasion he was in his office and was accosted by a lady of rather antiquated appearance, to subscribe to some charity; she persisted in her appeals after being told by Mr. Fullerton that he had all the calls upon him of that nature he could well meet. Then, upon being told that he was very busy, she remarked, "Oh, Mr. Fullerton, the Lord has blessed you abundantly through life." "Well, that is so; but he seems to have abandoned me just now," was the reply. She closed the door and left in a high state of excitement. These are but specimens of a multitude of instances of his ready wit and humor.

Mr. Fullerton's family consists of his wife and daughter, the latter the widow of the late Erastus B. Rudd, who was associated with him in his law business, during his lifetime. His only son, William Fullerton, Junior, died in London, England, in August, 1888. He had achieved great success as a composer, having written several operas, and had made preparations for the presentation of his last work at a theatre in London, when he fell a victim to hasty consumption and died after an illness of only a few days.





*A. H. Garland*

## AUGUSTUS HILL GARLAND.

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ONE of the brightest and most talented lawyers of the South is Augustus Hill Garland. He is the youngest child of Rufus K. and Barbara Garland, who resided in Tennessee at the time of his birth, where, near Covington, on the 11th of June, 1832, their illustrious son first saw the light. A year afterward his parents removed to Red River, in the southwestern portion of the then Territory of Arkansas. Toward the close of 1834, Mr. Garland's father died, leaving a widow and three children. A few years elapsed and Mrs. Garland was married again to Thomas Hubbard. Mr. Hubbard was a prominent lawyer of that new country, became eminent in his profession before he died, filling several high positions with distinction and honor.

In the spring of 1845, when Mr. Garland had attained his thirteenth year, he was sent to Saint Mary's College near Lebanon, Kentucky. He remained at Saint Mary's until the succeeding summer, when, in consequence of an entire change of the faculty and mismanagement of the school, he was transferred to Saint Joseph's College, Bardstown, in the same State. While at Saint Mary's young Garland was a most industrious student, and the same record followed him to St. Joseph's, where, after a three years' course, he was graduated with the highest standing. With six others of his class he received the degree of A. B. In the autumn of that year, 1849, Mr. Garland returned to Washington, Hempstead county, Arkansas, where his mother after her second

marriage made her home. The town of Washington was one of the first settled and most important places at that time in the State. Taking a short respite from study and a proper round of recreation with his old friends, Mr. Garland again devoted himself to his books. He entered the office of his step-father, who had already built up a lucrative practice in a rich and flourishing county, with an able Bar to care for its legal business. In the following spring, while yet very young, not desiring to be admitted to the Bar too soon, Mr. Garland opened a school in the little hamlet of Brownston, in the same State. Here he successfully taught about thirty scholars for a period of six months, in a neighborhood noted for its wealth and refined society. While teaching this school, the future great lawyer had his first case. He had on one occasion used the rod rather freely. In those primitive days all over the United States, the injunction of the wise Solomon was observed in stricter sense than the children of the present generation ever dream of. Two of Mr. Garland's scholars whom he had punished severely, as they alleged, appealed to their father. The incensed parent thereupon sued the youthful teacher for ninety-five dollars damage, before the local Justice of the Peace. Mr. Garland appeared in person, plead his own case, gained it, and thus stultified the legal apothegm.

From the fact that Mr. Garland was compelled to teach school, it is evident that poverty, in a degree at least, was the portion of his youth. Such seems to have been the fate of nearly all of our great men in early life. Perhaps it is that necessarily imposed hardship incident to a deficiency of wealth; that roughing it with the world, which has made such sterling characters. It engenders that characteristic self-dependence which rarely fails of leading its possessor to success, the reverse, or absence of which so often wrecks the ambitions of the pam-

pered boy reared in luxury. The history of America's most brilliant men reveals a struggle with poverty in early youth, in almost every instance. Their determination to succeed, even under the most adverse circumstances ; their persistence and energy, has lifted them to the exalted positions they have occupied at the Bar and in the Nation.

At the close of the school term, Mr. Garland returned to his home in Washington. There he was offered and accepted a position as Deputy County Clerk under Simon T. Sanders, who had been the principal in the office for thirty years. He occupied the place for twelve months, during which time he continued the study of law under the instruction of Mr. Hubbard, his step-father.

In 1851, by careful habits of economy having earned sufficient money to enable him to do so, he again entered Saint Joseph's College. There he took a second course, at the same time, to some extent, reviewing his former studies. In July of the next year he was graduated, receiving the degree of A. M. from that institution.

In the winter of that year he again returned to his mother's home in Arkansas, continued his studies under the tutelage of his step-father ; early in 1853 was licensed and formed a partnership with him and entered the practice.

When he installed himself as a law student in Judge Hubbard's office upon his return from Saint Joseph's College, he was very tall, and was thin from continued study. He had a piercing eye, a handsome face with a decidedly intellectual cast of features ; was the admiration of all the belles and the envy of the beaux. The young lawyer did not manifest a great susceptibility to the tender passion. Coke and Blackstone possessed more charm than the beauty of blooming maidens. In the dingy little law office, with its shelves of musty volumes, he found a more agreeable retreat than in the brilliantly lighted drawing

rooms of society. This monastic indifference did not last long, however. The handsome young attorney's heart was shortly captured by the accomplished Miss Virginia Sanders, eldest daughter of the venerable Clerk of the County, whose deputy he had been some years before.

Mr. Garland, as is the case with a majority of our distinguished lawyers, is not noted for the regularity and curvilinear beauty of his chirography. It was a standing joke in the town where he resided in his youth, that as he was so greatly rewarded as Deputy Clerk, he should have learned to write a better hand.

The partnership with his step-father continued for two years, resulting in a large and lucrative practice. At the end of that period Mr. Hubbard was elected Judge of the Circuit, which, of course, compelled him to abandon the practice. Mr. Garland then carried on the business of the office alone, having all the work he could possibly well attend to; every moment occupied. The number of his clients constantly increased, as the Circuit of which his step-father was Judge comprised ten of the wealthiest counties in the State. He continued to apply himself with great industry and energy in his profession, and at the time of his marriage, when he had arrived at the age of twenty-five, he had already acquired an enviable reputation as an able, successful practitioner. In consequence of his rapidly rising prominence, the town of Washington became too restricted for his commanding talents, and he sought a larger arena in which to exercise them. In June, 1856, he received an offer of partnership from Mr. Ebenezer Cummins, one of the most prominent lawyers of Little Rock. He accepted it, removed to that city, where he at once entered upon a very extensive practice, reaching into the entire southern and eastern portions of the State. In less than twelve months after associating himself with Mr. Cummins, that gentleman

died, again leaving the youthful advocate alone in charge of an immense business.

That Mr. Garland maintained his reputation as an able lawyer, retained the former firm's clients in their entirety, the reports of the Supreme Court of Arkansas from 1856 to 1861 abundantly confirm. In 1861, at the time Lincoln was inaugurated, Mr. Garland, was in Washington, D. C., attending a session of the Supreme Court of the United States. Arkansas had called a convention to consider the fevered relations between the several Southern Commonwealths and the General Government; Mr. Garland was addressed by a number of personal friends soliciting his consent to stand as a delegate. He agreed to do so upon the express condition that it was to be as a Union candidate. He was elected with Joseph Stilwell, of Pulaski county, who, like himself, was a decided Union man. When the convention assembled there were in it a majority of five, who thought as Mr. Garland did, and it adjourned without effecting anything, to meet again at the call of its President; awaiting the action of the other Southern States. During its recess, Sumter had been fired upon and immediately upon receipt of the news, on the 6th of May, the convention re-assembled and at once passed an ordinance of secession. Every member voted in the affirmative excepting Isaac Murphy, who was afterward made Provisional Governor, by President Lincoln.

Mr. Garland had always been a Whig. At the commencement of hostilities, however, when all old party lines were obliterated and the people became a unit, he was selected without a dissenting vote to represent them in the Provisional Confederate Congress, at Montgomery, Alabama. His colleagues were Robert W. Johnson, Albert Rust, Hugh F. Thomason and W. W. Watkins. Mr. Garland served through the temporary organization at both Montgomery and Richmond, was twice elected

to the Lower House upon the establishment of the permanent Government at the last mentioned place. Before the close of his second term, however, he was elected to the Senate, in which capacity he remained until the fall of the Confederacy.

After the surrender Mr. Garland, returned to his home in Little Rock. Nearly everything of which he had been possessed was swallowed up in the collapse excepting his law library. It was, in fact, the only property he saved from the wreck, so he again commenced the practice of his profession, having first obtained a pardon from President Andrew Johnson.

Mr. Garland at once petitioned the Supreme Court of the United States for leave to practice before it notwithstanding the "Test Oath" then on the statute books. The argument in this celebrated case was made by Reverdy Johnson, Matthew H. Carpenter, R. H. Mann and Mr. Garland himself. After two separate hearings the Court sustained the petition, declaring the "Test Oath" Unconstitutional. The case is known as *Ex parte Garland*, 4 Wallace United States Reports, 333. This suit commanded the earnest attention of the whole country. Its importance was not over estimated, and it takes rank among the leading cases in our jurisprudence. Triumphant winning his suit, he gained a prestige which enabled him to build up once more, in a very short time, a large and lucrative practice.

At the time of the decision of the "Test Oath" case the Legislature of Arkansas was in session. It elected Mr. Garland to the United States Senate by an overwhelming vote; upon the presentation of his credentials, however, he was refused admission.

Mr. Garland was indefatigable in his efforts, both on and off the stump to defeat Reconstruction. The measures prevailed. He then devoted himself exclusively to the practice with that success ever characterizing his

previous experience. When the political trouble in Arkansas culminated in what is known to history as the "Brooks-Baxter War," he took an active part in public affairs again. He was inspired to this by the chaotic condition of the State in consequence of Reconstruction, and when the people, in the summer of 1874, met in convention and ordered a general election, Mr. Garland was exalted to the Chief Magistracy without opposition.

After having served two years and two months as Governor, to the satisfaction of the entire State, the Legislature, in 1877, elected him to the United States Senate. Every Democrat voted for him, and ten out of the eighteen Republicans. At the expiration of this term he was returned by a more unanimous vote than before. He received all the Democratic votes; all the Republican, and three Greenback members. For two years more Mr. Garland continued his laborious work in the Senate, when, upon the accession of Mr. Cleveland to the Presidency, he was appointed Attorney General, resigning his seat in the Senate.

Mr. Garland's services while Senator are well known to those who read of the current political events of the country. He was an active member of the committees on Judiciary, Territories, Public Lands, and others of minor importance. He did a vast amount of work, earnest in his endeavors to fill the honorable office he held with credit to himself and faithfulness to the entire country.

While Attorney General of the United States, Mr. Garland was censured by the Senate because he refused to send to that body papers relating to the appointment of an officer in the Department of Justice. His refusal to comply excited a prolonged debate. The question was settled by a resolution of censure, carried by a strict party vote. Thus Mr. Garland shares with the immortal Jackson, the fame or the odium of appearing in the jour-

nal of that august deliberative assembly, the United States Senate, as an object of its displeasure. As yet, no Tom Benton has risen in his place and moved that the resolutions be expunged from the record, as was done in Jackson's case.

It is unquestionably true that Mr. Garland was offered, by President Cleveland, the position of Associate Justice of the Supreme Court of the United States. He declined to allow his name to be mentioned in connection with the high office, for reasons that will commend themselves to every one. After his long, honorable and busy career, Mr. Garland was tired of public life and place. He desired only to return to his practice. That he was perfectly sincere in his determination to retire from the world of politics, is confirmed by the general public impression at the time. His State desired to honor him again as it had twice done before, by returning him to the United State Senate, this too, he refused.

Mr. Garland's career has been an exceptionally brilliant one. At its very outset his commanding abilities made him a mark for political preference; honors in that direction have fallen upon him thick and fast. Before he had arrived at the age required by the Constitution of the State of Arkansas, to make him eligible to a seat in its Legislature, he was compelled to decline a nomination for that body because of his youth. Previous to the inauguration of the Civil War he had affiliated closely with the Whig party, which in Arkansas was in a hopeless minority. He was frequently urged to become that party's candidate for Congress; the certainty of defeat compelled him to always decline the empty honor.

Immediately after leaving college, in 1852, though not old enough to vote, Mr. Garland took an active part in the stirring campaign in Nelson county, Kentucky, that year, the seat of his *alma mater*. He made many speeches for General Scott, the Whig candidate for the

Presidency; this was the first appearance of Mr. Garland in political life. He cast his first vote for President of the United States when Millard Fillmore was the candidate of the American Party, so-called. In 1860, Mr. Garland was a candidate for Elector, at large, for the State of Arkansas on the Bell and Everett ticket.

Judge Hubbard, Mr. Garland's step-father was an ardent admirer of John J. Crittenden of Kentucky. When President Fillmore appointed that gentleman his Attorney General, the Judge remarked to his step-son: "Now there is a fine appointment. That will do excellently well; Crittenden is a man in every sense of the word and a fine lawyer." To this the youthful Garland replied: "That appointment is all right. There will be no trouble there, but I will be Attorney General of the United States myself some day." Upon this the old gentleman somewhat shocked by what to him seemed the wild flight of a boy's imagination, remonstrated with his protégé on his apparently absurd prophecy. The parting words of the student were, however, "Well you see if I don't," which was uttered in earnestness as he retreated in haste from the presence of the old gentleman. The boy's ambition was realized, but too late for the tender and kind-hearted step-father to share his son's proud accession. He had some years before gone to that rest which is the inevitable fate of mankind.

Mr. Garland in the days of his youth was tempted by the Muse. Some verses are extant which he wrote at that time. He soon abandoned inditing "Sonnets to his mistress' eyebrows" for the stern arguments of law. He would blush now in the golden days of his useful life if he thought those poetical effusions had not long ago been consigned to the flames.

Mr. Garland is, for business purposes, located at the National Capital. Arkansas is still his home, that State which has so often honored him; to the best interests

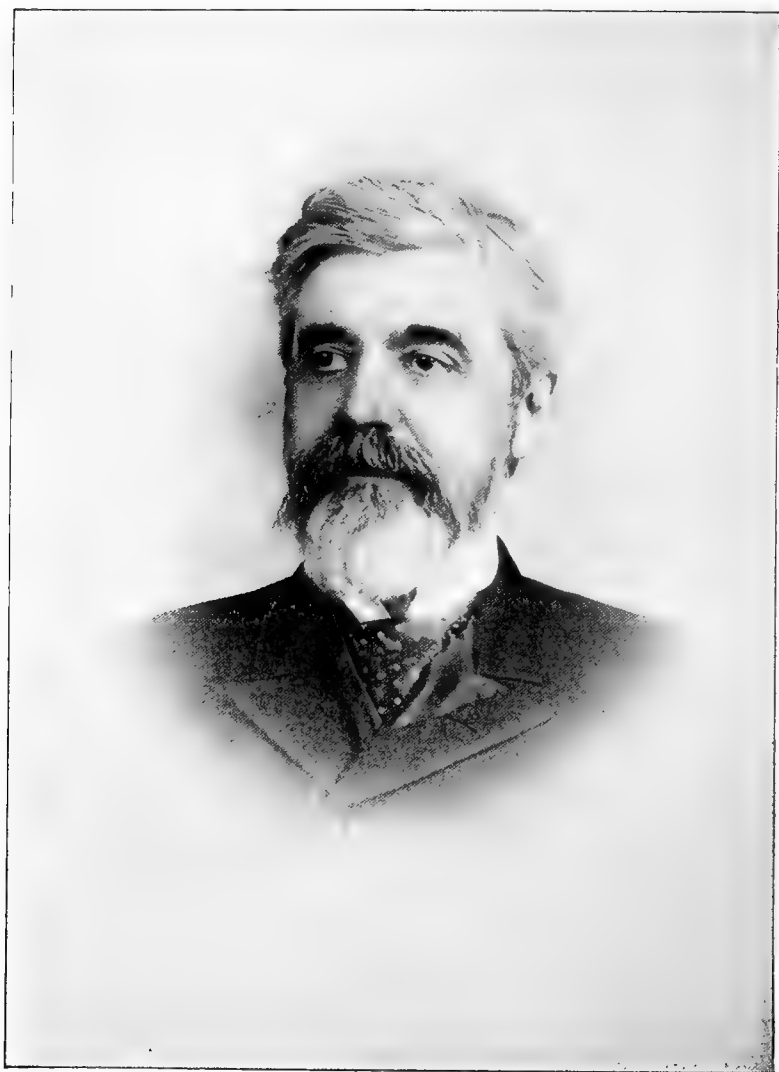
of which he has devoted the long years of his energy and brilliant talents. He has an extensive law practice; associated with him is Mr. H. J. May, who was a faithful assistant in the Department of Justice when the senior partner of the firm was its distinguished chief.

Nine children have been the fruit of General Garland's happy marriage. Five of them were lost at an early age—from two to six years. Four survive; three sons and one daughter. All of these are grown except the youngest. They are still moving along in the footsteps of their illustrious father at Saint Mary's and Saint Joseph's in Kentucky.

Mr. Garland is a well preserved specimen of the Southern gentleman. Straight as an arrow, measures six feet one inch in his shoes; weighs 190 pounds. He is in the enjoyment of excellent health. No one noticing him as he walks around the great city, would suppose that he had ever risen to a position beyond that of a village schoolmaster. Naturally genial and social, he has often, because of the constant engrossment of his time with business, seemed to appear what he in no sense is, a sour, unhappy man.

In December, 1877, Mrs. Garland was taken from him by the ruthless destroyer. The cruel blow fell upon him with crushing force. For a long time his friends were fearful it would also destroy him. His aged mother, his great consoler since the death of his deeply lamented wife, is one of his family, and in the full possession of all her faculties.





W. A. Graham

## WALTER Q. GRESHAM.

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LORD BOLINGBROKE'S definition of men of genius, applies to the distinguished Americans who have added to the luster of their country, though at the time he uttered the words, the United States had no existence. "Such men," said he, "either appear like ministers of divine vengeance, and their course through the world is marked by desolation and oppression, by poverty and servitude; or they are the guardian angels of the country they inhabit, busy to avert even the most distant evil, and to maintain or procure peace, plenty, and the greatest of all blessings, liberty."

There is no field comparable to the law for the development of the faculty referred to and a man of genius in that domain, is bound to assert his superiority quicker than in any other. But while the scope may be greater, the demand made upon the character who possesses the genius, is the test of the man, who must be absolutely endowed with it in a degree that admits of no hypocrisy. He is true or his superficiality will soon find its level.

The eminent Judge whose biography in a limited space is here recorded, is evidently a man of genius in the domain of the law, where he has stood the test which either mars or makes, and the record of his official life fully sustains the verdict in his favor.

Walter Q. Gresham, the present Circuit Judge for the Seventh Judicial Circuit of the United States, was born March 17, 1832, on a farm near the village of Lanesville, in Harrison county, Indiana. His ancestors were

of English extraction on his father's side of the house, and Scotch-Irish on his mother's side. They located in Virginia originally and subsequently one branch of them migrated to Kentucky and thence north to Indiana. George Gresham who came to Indiana with his wife and family from Kentucky in 1809, was a man of strong and positive character and prominent in the Methodist church. The brother of his wife, Dennis Pennington, was an influential politician in his day, serving as a member of the Territorial and State Legislature, in the Senate and House of Representatives for a quarter of a century, and was at one time Speaker of the latter body. William Gresham was a son of George Gresham and, a farmer who also carried on the trade of a cabinet-maker. In November, 1825, he married Sarah Davis by whom he had five children, and of these Walter is the youngest. At the election of 1833, William Gresham was almost unanimously chosen sheriff of Harrison county, and in the following January was killed by a local desperado whom he was endeavoring to arrest. His young widow gave her life thenceforth to the care and support of her children, two of whom were girls, and, being left with little means had a hard struggle of it. As the boys grew up they helped their mother in the work on the farm until Benjamin, the eldest, became a soldier in the Mexican war and afterward became a Colonel of an Indiana regiment in the war of the Rebellion. Walter obtained a position at Corydon, the county seat, which enabled him to become a pupil in the Seminary there for a period of two years. He subsequently entered the State University at Bloomington and remained there a year as a student. Leaving Bloomington he obtained a place in the County Clerk's office at Corydon, whereby he was able to maintain himself while he studied law under Judge Porter who was a thorough and efficient instructor. In 1854 young Gresham was admit-

ted to the Bar and entered into partnership with Thomas C. Slaughter, who afterward became Judge of one of the Circuit Courts of the State, and was also at one time Agent of the State in the transaction of its financial business. Judge Slaughter was a delegate to the convention which nominated John C. Fremont as its candidate for President and with his partner, entered actively into the canvass of the Republican party, with which they had identified themselves on its organization. Judge Gresham was persuaded to become the Republican candidate for the Legislature in 1860 and, although Harrison county had a Democratic majority of 500, he entered the contest. He challenged his opponent to a joint discussion at various points in the county and worsted him so badly at several meetings that he abandoned the rest of them. The result was a great triumph for Mr. Gresham who was elected by a handsome majority.

As a member of the Indiana House of Representatives Mr. Gresham was distinguished for his capable and energetic service. He was chairman of the Committee on Military Affairs at a time when that Committee was one of the most important in the Legislature. It was evident to every intelligent observer, and to none more than to him, that war between the Southern States and the Union was inevitable, and that preparation for it could not safely be postponed. Other preparation than simple material equipment was necessary, for Indiana had a large population whose sympathies were inclined toward the South, and Mr. Gresham felt that, in order to preserve an undivided State, every honorable means for an amicable adjustment of the differences between the North and the South should be exhausted before there was a resort to "the last argument" of arms and war. He, accordingly, aided in procuring the assent of the Indiana Legislature to the proposal of Virginia for a conference at Washington of the representatives of states

bordering on the slavery line and Indiana sent its delegates. The guns at Fort Sumpter interrupted and abruptly terminated the conference, but an effort had been made in a direction which helped much in the enlistment of Democratic soldiers for the Union Army.

When the Legislature adjourned Mr. Gresham was appointed Lieutenant-Colonel of the Thirty-eighth Regiment of Indiana Infantry Volunteers by Governor Oliver P. Morton, and shortly afterward received from the same source a commission as Colonel of the Fifty-third Regiment. His Regiment joined Grant's Army in Tennessee, and participated in the sieges of Corinth and Vicksburg. After the fall of Vicksburg he was appointed Brigadier-General, on the recommendation of Grant and Sherman, for his distinguished and gallant service in the field, and was assigned to the command of the port of Natchez, which had a bad reputation for disorder and turbulence. The Government of the city under General Gresham was characterized by wisdom and firmness and it was soon restored to a condition of peace and quietude. The cotton speculators and thieves and gamblers of all sorts, discovered that they were unable to control the administration of its affairs, either by force or bribery, and they were suppressed or banished with great promptness.

General Gresham remained at Natchez until the spring of 1864, when he was given command of a division of the Seventeenth Corps in the Army of the Tennessee and assigned to duty in the campaign against Atlanta. He was in the battle of Kenesaw Mountain and the engagements about Atlanta until the 20th of July, when, in the battle of Leggett's Hill, while he was at the front reconnoitering the position of the enemy with reference to a further advance, he was struck by a ball just below the knee. He was taken to the rear, and it was here, that on the next day General McPherson, who com-

manded the Army of the Tennessee, and was his intimate friend, after personally supervising the removal of General Gresham from the battle field, was killed.

General Gresham was removed to New Albany, where he was confined to his bed with his wound for more than a year. He resisted the proposal of the surgeons to amputate his limb, and after suffering long and severely, he was finally able to regain the use of it, although he is still lame. After he left his bed he was compelled to walk with crutches for several years, and when able to dispense with them, had to use a cane.

Toward the close of 1865 he formed a law partnership at New Albany, with Honorable John H. Butler and his son, Noble C. Butler. In 1866 he was urged by the Republicans of the New Albany District to make the race for Congress against Honorable Michael C. Kerr, who was the Democratic candidate, and afterward Speaker of the House of Representatives, and accepted the nomination. There was a very large Democratic majority in the district, but it was reduced so much by the brilliant and vigorous campaign of General Gresham, that at the next session of the Legislature the Democrats thought it prudent to add two more heavily Democratic counties to it. General Gresham's campaign was made on crutches and with great physical discomfort, but it evoked wonderful popular enthusiasm, and is still regarded as an epoch in the political annals of southern Indiana. In 1868 he again became the Republican candidate for Congress against Mr. Kerr, but the Democratic majority having been greatly increased by the gerrymander of the district, was again defeated.

When Grant became President in 1869, he offered General Gresham the post of Collector of Customs at New Orleans, but it was respectfully declined. Afterward he was offered the position of United States District Attorney for Indiana, which was also refused. The

subsequent death of Honorable David McDonald, Judge of the District Court of the United States for the District of Indiana, having made a vacancy in that position, it was tendered General Gresham by the President and accepted. He was appointed United States District Judge in December, 1869, and immediately went upon the Bench. The bankrupt law had been enacted about two years before the commencement of his service as Judge, and it imposed great labor and heavy responsibilities on District Judges. New questions concerning fraudulent sales and transfers and the preferences of creditors by insolvent debtors were constantly arising, and Judge Gresham applied himself to the study and disposition of them with that energy which has characterized his discharge of duty in every position that he had previously occupied. Besides the ordinary business of the District Court, he had, as one of the Judges of the Circuit Court, *ex officio*, in connection with the Circuit Judge, charge of numerous railway receiverships, where large interests were involved and the best executive ability was required to administer them. In these matters his faculty for administration as well as his legal and judicial qualifications were conspicuously exhibited. Some of the largest railway systems of the country at one time or another passed through the Court in which he was one of the judges, and were objects of his supervision.

Judge Gresham served with distinction as a District Judge until April, 1883, when President Arthur invited him into his Cabinet. The death of Postmaster General Howe made a vacancy, and Judge Gresham was offered and accepted the position of Postmaster General. His administration of this office was dignified and conservative. It was not marked by any event of great note unless his exclusion of the business of the Louisiana Lottery from the mails, may be entitled to that distinction.

On the death of Secretary Folger, toward the close of President Arthur's administration, Postmaster General Gresham was made Secretary of the Treasury. He remained in control of the Treasury Department until the retirement of Judge Drummond from the Circuit Judgeship of the Seventh Judicial Circuit of the United States, when that position was offered, and by him accepted. While Judge Gresham was in the Cabinet he was regarded by the President as a safe and judicious adviser, and had his implicit confidence. Although his connection with the Postoffice and Treasury Departments did not extend over a long period of time, he left his impress on them, and that portion of the public which had dealings with those departments, acknowledged the fairness and justice of his administration of them. In such controversies as arose about men or measures, the introduction of judicial methods whereby everyone had a patient and respectful hearing before any decision was made, gave universal satisfaction. Those who were unsuccessful felt that no unfair advantage had been taken of them, and that they had been honestly defeated.

Since the return of Judge Gresham to the Bench he has had some very important controversies before him. In the celebrated case of the United States v. Joseph Mackin for violation of the election laws Judge Gresham held that the Government should proceed by indictment, and, upon a certificate of division between himself and Justice Harlan, was sustained by the Supreme Court. Judge Gresham is never overwhelmed by the importance of litigants or their counsel, and every man without regard to his social or professional standing has an equal opportunity before him. In a suit against the town of Ottawa upon some of its bonds, an ex-member of President Garfield's Cabinet appeared for the plaintiff. It happened in the course of the suit, that the original holder of the bonds having purchased them without

notice of a defect which made them invalid in his hands, transferred them to an innocent purchaser, presumably under the advice of the ex-member of the Cabinet who was counsel both for the original and subsequent purchaser. As soon as the device became apparent Judge Gresham informed the distinguished counsel that it could not succeed in his court, and that he should hold that the client in such a case, was bound by the knowledge of his attorney.

One of the most important cases which has ever been under the consideration of Judge Gresham is what is known as the "Wabash Case." A succinct statement of it was published in the Chicago *Tribune*, and is here reproduced:

"The Wabash system was the masterpiece of Jay Gould's genius. In the spring of 1884 it was composed of no less than sixty-eight separate, original corporations, controlling nearly 5,000 miles of railway in the six States of Ohio, Michigan, Indiana, Illinois, Missouri and Iowa. It had a consolidated capital of over \$50,000,000 and a bonded indebtedness of nearly \$80,000,000. Commencing in 1879, Mr. Gould and his associates, chief among them were Russell Sage, Sidney Dillon and Solon Humphreys, obtained control first of one bankrupt railroad and then of another, all heavily in debt and most of them in the hands of Receivers, until they had secured a network of railways running through the States above mentioned. They were not only a network but a glittering web in which it was proposed to catch many financial flies. Nothing less than the high sounding name of 'system' would do for such an aggregation of railroad iron. Each separate road had its separate indebtedness—all that it could carry—but that was a small matter to the manipulators of the system, a \$50,000,000 mortgage was placed upon the entire system, a large portion of which was sold in England. The system

was also stocked to the extent of some \$50,000,000, one-half of it preferred stock, and the most of this was duly marketed on Wall Street and in London. 1879, 1880, and 1881 everything was booming, six per cent dividends were paid, the preferred stock sold at ninety-eight cents and the bonds at par. But the system did not earn the money to pay these dividends, nor scarcely enough to pay the interest on the separate mortgages with running expenses. The heroic treatment of the system by Mr. Gould and his associates had the effect heroic treatment often has upon other kinds of systems. It broke it down, and one day in May, 1884, General Wager Swayne, attorney for Gould and all his friends, appeared before Judge Treat at Saint Louis and filed a bill in equity on behalf of the Wabash Company asking for the appointment of a Receiver. Receivers were appointed without notice to any creditor and on behalf of the debtor Company itself. Among the first things the Receivers did was to pay out the receipts of the road as fast as they could, certain advances that Messrs Gould, Sage and Dillon had totally made, oblivious of the fact that they were but ordinary creditors, if at all, and that the mortgage creditors must be paid first. In fact they ran the system exactly as Gould wished.

"The first mortgage bond holders, finding their requests were not considered at all, finally filed a bill in the United States Circuit Court at Chicago for the removal of these Receivers and for an adjustment of their rights. The case came on for hearing before Judge Gresham in November, 1886, and lasted many days. Much testimony was taken, many nice and intricate points of law raised, and learned counsel argued with acuteness and ability. In his decision Judge Gresham tore away all the mass of sophistry that had been thrown around the case; ignoring all the fine points that had been made, went to the heart of the matter. He saw through the whole fraudu-

lent scheme, by which Gould and the rest had added millions to their private fortunes, and he had no hesitation in characterizing it as it deserved. He took control of the roads in the system which were east of the Mississippi river, discharged the unworthy stewards, and placed the roads in the hands of an honest Receiver."

Judge Gresham is not only a fine lawyer but he is a great Chancellor. His moral perceptions are remarkably accurate, and direct. He is never confused or misled by any net-work of conventionalities which may surround a subject of judicial investigation. He does not "stick in the bark." In the statement of a case he has the rare faculty of simplifying it and making it clear to the dullest apprehension. The points in controversy are reduced to the minimum and stripped of the legal terminology and technicality. Under his treatment the most complicated legal questions are often resolved into plain questions of good morals and common sense which admit of the simplest answers. He is impatient with judges who sit like umpires at a game of wits and give judgment as they would award a prize for intellectual superiority. In administering the law he never forgets that justice and equity are the ends of every system of jurisprudence and he makes these ends his aim. He is conscious that it rests with the judge at least whether a system of law is a failure or not, and feels the responsibility of effectuating their purpose.

His name is frequently mentioned in connection with the Presidency. He is a Republican in politics, but as he expresses it, "not an orthodox Republican." Should he be called to the Presidency, and it is not improbable, the integrity of the Nation will not suffer in his hands.





*W. P. Harris*

## WILEY P. HARRIS.

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JUDGE WILEY P. HARRIS was born in the State of Mississippi, on the 9th day of November, 1818. His paternal grandfather, Buckner Harris, emigrated from Virginia into Georgia, and after many changes of location settled permanently on the Saint Mary's river, in Florida. That Territory was then a wild, unexplored region, frequently raided by the savages of the interior and adventurers from the neighboring borders. His grandmother was Nancy Early, of the distinguished Virginia family of that name; the present General Early and the late Bishop Early, are of the same lineage.

When the father of Judge Harris emigrated to Mississippi he was well-to-do, but through the vicissitudes of fortune, became completely impoverished before he died. He had been, very much against his will, forced to fight a duel, in which his adversary fell at the second fire, although Mr. Harris offered, after the first exchange of shots, to settle the quarrel amicably. He was also the principal in another fight, which resulted unfortunately; and these deplorable events rendered him a most unhappy man; he became a prey to melancholy, and from the thrift and energy which characterized his nature, he settled into a condition of carelessness and utter indifference to his worldly affairs; died in the prime of his life, leaving his children absolutely destitute, his wife having been dead some years.

Judge Harris, then a mere boy, was adopted by his father's brother, for whom he had been named. The

uncle, Wiley Harris, was poor but independent; he was a physician of excellent repute and a farmer as well; he was also quite a local politician, having represented his county several times in the Legislature.

Young Wiley was required to assist in the work of the farm and the chores around the house. He was sent to school half of the year and the other half remained at home and helped his uncle carry on the labor of the fields. When the boys left off work in those days at home, to go to the "Old field school," they took to learning with great zest, and when the time came to exchange arithmetic, grammar and reader, for the plow and axe, they laid down the books again with equal alacrity. There were no dime novels; the "Scottish Chiefs," "Children of the Abbey" and "Thaddeus of Warsaw" served to cultivate the emotions; Elementary History prepared for the schools, and "Weem's Lives," filled the youth with admiration for their ancestors, and stimulated the growth of patriotism.

The great holiday, the crowning, glorious *fete* in those days in Pike county, was the Militia Muster. Judge Harris' uncle was the General of the Brigade, and the then Governor of the State, Brandon, with a portion of his Staff, were always the guests of his uncle, on these occasions of the review of the Militia of the county. The Governor and his Staff were arrayed most gorgeously, in blue and buff, and with plumes in their hats of surpassing richness, they were awe-inspiring magnates, particularly to a farmer's boy. The reviews amounted to very little, so far as any utility was concerned, but there was always much "fuss and feathers." There was, of course, a pretense of inspecting the squirrel guns and corn stalks. The men formed in two lines about fifty feet apart, through which the Governor and his Staff rode, their high mettled steeds prancing all the time, which completed the transcendent spectacle. The

ranking officers consumed a great deal of whiskey and were voluble in their discussion of the battle of New Orleans.

The uncle of Judge Harris, about this time determined to move again, and with many of his neighbors and friends in Pike county, started for Copiah county, establishing themselves on the Pearl river, near the embryo village of Georgetown. They all took up their claims in the primitive forest, cleared the land, built their cabins and fenced their rich acres in an incredibly short space of time.

Recalling the past, to determine what part of it he would prefer to live over again, Judge Harris finds that his thoughts invariably dwell with most delight upon those days which he passed on the banks of the Pearl river at Georgetown. The swamps of the region in those days literally swarmed with deer, turkey, rabbit and other small game, while the lakes and streams attracted an abundance of duck and water-fowl in the winter, and the river was filled with fish. The Pearl, now turbid and shallow, was then rightly named, for it was beautifully clear and sparkled in the sunlight like a gem. The fish were killed at night with gig and spear, or trapped and caught with rod and line; they were halcyon days for a boy, and long after the Judge grew to manhood, and had fairly entered upon the practice of his profession, he always took time, once a year, to revisit the scenes of his early boyhood and engage in these sports, which dwelt so pleasantly in his memory.

From Georgetown, his uncle went to Columbus, Mississippi, where the nephew attended school for about two years, then took up his residence together with his sister at the home of his oldest brother, James R. Harris, who lived in Brandon, a successful merchant of that place, and who had married Adeline Brown, a beautiful and accomplished lady, the sister of Governor A. C.

Brown. At Brandon, young Harris served as a clerk in his brother's store, where there was but one other boy, and he was thrown into the companionship of men. Fortunately, those with whom he was necessarily brought into contact were gentlemen of refinement and cultivation; some of them authors, and all great readers of the best literature. Brandon is now but a sleepy, dilapidated village, but in the days of Judge Harris' youth, was a place of importance and stirring life. Such famous men as S. S. Prentiss, Colonel McClung, Chancellor Buckner, Judge Trotter, H. S. Foote and Robert J. Walker, then resided there, all historic names in the Nation. Judge Harris was at that time about fourteen years old and became a general favorite with the gentlemen of Brandon, who talked with him, read with him, and above all, loaned him books of every character, such as a boy should read. So proficient did he become for a youth of his tender age, in the art of conversation, and the power of recalling what he had read, that he was regarded as a prodigy for that place and era, and when in a few years attended the celebrated University of Virginia, there were no students then of his age so well versed in English literature as himself.

To his elder brother with whom he lived while at Brandon, Judge Harris owes his literary and professional education; it was he who provided the means for him to enter the University of Virginia, where he remained two years. At this time money matters in Mississippi were in a terribly confused condition; to get "good" money for his use was almost impossible, and Judge Harris returned to his home in Brandon with few diplomas; he was now about eighteen years old, and remained with his brother another twelve months, "nibbling" at the law, as he expressed it, when means were furnished him by his brother, and he entered the Law Department of the College at Lexington, Kentucky. He was reduced

to great straits at times, but was at last graduated with distinction in 1840.

Upon leaving Lexington and returning to Mississippi, he found the financial condition of affairs in that State much worse; his brother James was then a commission merchant at Memphis, Tennessee, but was pressed to maintain his credit; all the additional aid he could give to his younger brother was to pay off some small debts he had contracted while at the Law School, and fifty more in Union Bank Notes, with which to commence in the world.

It was resolved in a counsel of the family that the young advocate should start in professional life at Jackson, the capital of the State, for which place he at once set out by stage. Arriving at Raymond the next morning, he went into the hotel to get his breakfast, when to his dismay he saw a notice posted in a conspicuous place at the desk, that Union Bank Notes would not be received in payment; as he was possessed of no other money, this meant that he must go without his breakfast. Upon arriving at Jackson, he found that the legal profession seemed to embrace the whole community; it was difficult to obtain an office at any price, and board was very high. Harris was without money, and receiving no encouragement to cast his professional lot in Jackson, he saw before him, if he remained there, years of pinching poverty, and had not the courage to face it. Some friends from his old county, Copiah, who happened to be at the hotel where he was stopping, strongly urged him to go to Gallatin, the county seat of Copiah. At this critical moment, his uncle Judge Buckner Harris arrived in Jackson, and threw the weight of his influence in the scales of the debate in favor of Gallatin, and to Gallatin he went, and upon his arrival entered into partnership with Mr. Philip Catchings, a friend of his boyhood. The partnership did not last long, Catchings who was

independent and with other tastes and inclinations soon retired. The partnership was, however, the means of giving Harris some practice; although only about twenty-four he was as well prepared to practice as any man could be by reading and study alone.

He envied the ease and confidence of men who did not hesitate to take his opinion on a point of law doctrine. In speaking of this period of his career, he said: "It was my hard fortune to undergo many serious mortifications at starting, I lost a case by a blunder in the formal proof. Often I became so despondent that I regretted that I had ever taken it into my head to embrace the profession of law. This feeling however, gradually wore off."

It was the custom in those days, as it is now to some extent, for lawyers to attend all the courts in a circuit district. Then the lawyers and circuit judge traveled together from county to county and messed together, some on horseback and some in buggies, all amply provided with refreshments, cigars and pipes. There were well known places on the road where the party paused to take a strengthening glass, and a place where a fine spring of water or a clear running brook invited them to rest and refreshment at noon. Bar anecdotes and rare experiences were interchanged. It is impossible to describe adequately the reckless humor, the frolicsome wit and rampant merriment which reigned throughout the whole circuit ride. Whatever of jealousy or rivalry there might be between the gentlemen of the Bar these were dismissed on the journey. This freedom of intercourse with the older members of the Bar was calculated to relieve shyness and put a young man at ease.

On his first round on the circuit, Mr. Arthur Smith, the District Attorney for the Judicial Circuit, had, owing to the certainty of his attending every court in the circuit, acquired quite a large clientage. Out of

a spirit of kindness during the term, he gave Judge Harris the privilege of appearing in a case of some importance. The question was one of difficulty, and although the case was decided adversely to Judge Harris, he conducted it with so much ability, and evinced such a thorough knowledge of the subject, that he acquired considerable reputation. Mr. Smith was so well pleased with his speech, that he at once proposed that Judge Harris should go with him to all the courts of the district and take charge of his civil business or assist him, offering him a liberal share of the fees. Judge Harris was thus ushered into notice. Notwithstanding the prosperous auspices under which he entered the practice, for months at a time he hadn't a cent. As was said, there was no money in the country at that time. This is as nearly true as it ever was of any country, Sparta not excepted. The State banks and "shinplaster" mills had collapsed all at once, after having driven the coin out of the country.

At his headquarters in Gallatin there was little lucrative business at the best, and Judge Buckner Harris having left the Bench and returned to the Bar, and there being other lawyers of prominence and ability who practiced there, it was with great difficulty that our subject continued to make a support, and he re-established himself, this time at Jackson, intending to keep up his circuit practice. He found, however, that it took all his gains in the circuit to pay his office rent and board. He complained to an old and distinguished member of the Jackson Bar, that being conscious of his qualifications to conduct cases in the High Court of Errors and Appeals, yet he had no opportunity to prove it, that all the business of importance found its way into the hands of older lawyers. "Well, sir," replied the lawyer, "how would you have it? I have been twenty years working diligently to achieve the standing which

gives me the business I get; do you expect to divide with me at the outset of your professional life. You must be something of a prodigy to expect to reach the top *per saltum*." About this time a District Chancery Court was established at Monticello in Lawrence county, and that point being the center of the district in which his practice lay, Judge Harris left Jackson and made his headquarters at Monticello.

Shortly afterward the Circuit Judge, Thomas A. Willis, died, and Judge Harris was appointed to fill the vacancy. In regard to this circumstance, we quote here from a biography of Judge Harris, written some years ago:

"In 1847 Judge Thomas A. Willis, while holding Circuit Court in Hancock county, was stricken with yellow fever and soon afterward died. There were many old and eminent lawyers in the district who were willing to fill the vacancy. But Governor Brown, with his usual sagacity, selected W. P. Harris for the important position. Accustomed to older judges, many persons at first doubted the propriety of his appointment. He was quite young, twenty-nine years of age, and indeed appeared much younger. The first court he held, however, removed from the public mind all doubt about his capacity, and when soon after the election took place, he received a majority over his popular opponent, John T. Lamkin, a noble man and a first-rate lawyer, it may be said with truth that Harris was the ablest Circuit Judge that ever occupied the Bench in the State. Abstruse legal questions, which the arguments of opposing counsel would sometimes fail to elucidate when submitted for his decision, were in a few words rendered clear as the light of noonday. He adorned the Bench no less by his learning and ability than by his unquestioned integrity. As was said of another, when the spotless ermine of the

judicial robe fell on Wiley P. Harris it touched nothing not as spotless as itself."

Judge Harris made a great reputation on the Bench. He had occasion to exchange districts with his brother judges on the east and west of him, and everywhere the impression was the same. The Bar of Natchez, then one of the ablest in the State, gave a public testimonial of his success while holding court there by exchange. He says, speaking of this circumstance, "I took the Bench in Natchez with fear and trembling. There was a body of great lawyers there. I soon learned that it was far easier for an inexperienced judge to get on with good lawyers than with inferior ones, and came out of the trial with greater confidence than I before possessed."

In 1850 Judge Harris married the daughter of Judge Daniel Mayes, who had shortly before moved from Kentucky to Mississippi.

He grew weary of the Bench, and was indeed averse to public life, and although he was persuaded that he might attain to the Bench of the Court of last resort in the State, when the opportunity to stand for the place presented itself, he declined to be a candidate. His idea then was that a life on the Bench was not suited to him. He had, he thought, taken office too young as it was. He wanted the active life and freedom which the practice would give, and determined to retire from the judgeship when his term expired, and did so. Circumstances, however, about this period, 1853, forced him again into public affairs. The slavery question was then beginning to overshadow every other. The mutterings of the coming storm were becoming more and more distinct. A convention was held in Monticello to nominate candidates for Congress. There was much intense feeling and a dead-lock. We again quote from a former biography by G. S. McMillan, descriptive of the occurrence :

“ At this juncture Mr. Chrisman arose and addressed the convention in an eloquent and stirring strain, closing by nominating Judge Wiley P. Harris, of Monticello. Immediately H. F. Johnson, of Simpson, an able young lawyer, took the floor, and in a short, terse speech, endorsed the suggestion, and moved that the nomination be made by acclamation. With one voice the convention proclaimed Judge Harris the nominee, and the long contest was over. A committee proceeded to the modest little cottage of Judge Harris on the bluff of Pearl River, to notify him of his good fortune. They found him among his books. He was greatly surprised, and at first positively declined the proffered honor. He was not a politician, and did not desire a political office. He said he had no wish to enter politics, and that he could accept no office outside of his profession. The committee pressed the matter earnestly, said that his acceptance was absolutely necessary to the harmony of the party. He finally consented to appear before the convention after supper. At the time appointed he appeared, and made an appropriate speech, interlarded with characteristic wit. He accepted the nomination, and the convention adjourned.

“ Judge Harris was elected without opposition. He took but little part in the debates of Congress. He however made one great effort during the discussion of Douglas’ Kansas-Nebraska bill. It was probably one of the ablest of all the speeches made in that memorable debate. Many of the Senators left their seats and came over to the house, amongst these General Cass, the acknowledged leader of the Senate. He pronounced the speech the ablest that had been made in opposition to the bill. Judge Harris declined re-election to Congress, and went voluntarily back to the labors of the profession, to which his whole life has been devoted.”

Of his service in Congress, Judge Harris says, “ It

was a real torture to me. I could not say that I had achieved anything for my country or for myself." He returned from Washington and resumed the practice of his profession in Jackson. He was born a lawyer, and the profession had for him a real charm. He established himself in Jackson, and for six years gave himself up to professional labor. His practice steadily increased, and he achieved high standing at the Bar.

He was, however, drawn into the secession movement of 1860-61. He was a member of the Secession Convention. He was for a withdrawal of the slave States from the Union. Believing firmly that a withdrawal would bring about a settlement; he did not then think the movement would result in war. He was a member of the Confederate Congress. He advocated the speedy formation of a Central Government. He contributed to the election of Jefferson Davis as the provisional President of the provisional Congress. He was on the committee which drafted the Constitution of the Confederate States, and also on the sub-Committee on Style. He did not become a soldier, owing to an infirmity in sight. He did join an artillery company, but without any agency on his part, was detailed for other duties which he could perform.

It will be seen that the career of Judge Harris as a public politician began and ended with the ill-fated measures of the slave States. Since the close of the war Judge Harris has devoted his time to his profession, and has had as little to do with politics, as was possible for a man occupying his position, in a State undergoing what Mississippi has undergone. Every man young and old, whatever his profession, whatever his calling, was of necessity drawn more or less into politics in Mississippi during that period. The questions were so vital, and affected so nearly all that people held most dear, touching directly every interest, that from the very nature of the

case all were forced for self protection to take some part in public affairs. While Judge Harris could have had any office in the gift of the people he persistently declined to allow his name to be used in connection with any public office. Possessing as he did to the fullest extent the confidence of the people of the State, his recognized preclusion from any selfish motive, made his counsel and advice sought and prized in all great emergencies, and he never refused to contribute this or his time or labor when required.

He was a member of the late Constitutional Convention of Mississippi, and was chairman of the Judiciary Committee, and was on the Franchise Committee. He was chosen delegate from Hinds County. The Convention which nominated him, passed a resolution instructing its delegates to vote against any property or educational qualification; Judge Harris declined to go instructed. The Convention was re-assembled, and the instructions revoked.

Judge Harris is not an orator in the popular sense of that term, but he is a consummate master of the English language, and possesses an unsurpassed facility of expression and aptitude of illustration. He has no equal in his State, and no superior in the country in elucidating a legal proposition, and conveying in the clearest and most direct manner his exact meaning.

His life has been one of close study and earnest, intense, intellectual labor. He goes into a case with his whole soul, so to speak, and masters it in all its details. He "sounds all the shoals and depths" of every question. He is an omnivorous reader, and his memory is remarkable. He is the most conscientious of workers. He works even to this day on every case as if his all in life depended on the result of his labors. Now, in his seventy-fourth year, he still continues in active practice. Any one who will take the trouble to examine the reports

of the decisions of the Supreme Court of his State for the last twenty-five or thirty years, can gain some idea of the extent and importance of his practice.

To trace the lineage of Judge Harris inspires the greatest interest, and we regret that space will not permit us to embrace it in this sketch. His paternal grandfather Buckner Harris, combining the profession of surveying with the chances of land speculation, was led into many perilous positions, and on one of his expeditions was murdered by some person in ambush, by whom was never known. He left a wife and seven children, all of whom, with the exception of a daughter who married Russell Jones, and who went with her husband to Texas, removed from Florida and settled in the then territory of Mississippi, Early Harris, the father of the subject of this sketch pioneering them. The journey was hazardous, the means of subsistence difficult to obtain and the trail beset by hostile Indians and lawless whites. Early Harris, this pioneer, married Mary Harrison, who was a descendant of the old Wade Hampton family, of South Carolina; the sister of Isom Harrison, a prominent citizen of Lowndes county, Mississippi, and the aunt of James T. Harrison, a distinguished lawyer of Columbus, in the same State.

Judge Harris' career has not been characterized by the dash or the startlingly brilliant achievements, which bring men sometimes into notoriety. His rise has been steadily upward from the start, until he has reached the highest place. If the infinite capacity for taking pains is genius, then Judge Harris possesses genius in a high degree. He is a fine conversationalist, and has a fine sense of humor, and a great reputation for wit. His striking sayings are repeated by his brother lawyers from one end of the State to the other. We cannot close this sketch better than by quoting from a letter recently received by the author of this book from Senator E. C. Walthall, of Mississippi, relating to Judge Harris. He

says : "The Honorable W. P. Harris, of Jackson, Mississippi, has for many years been deservedly the acknowledged leader of the Bar of that State. He is beyond question one of the ablest lawyers in the Union, and is so considered by all who know him. His life has been devoted to his profession, and his fame, which is not limited to the State, is the pride of the people of Mississippi."







*Baptismism*





## BENJAMIN HARRISON.

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BENJAMIN HARRISON, twenty-third President of the United States, is descended from a long line of ancestry, noted for intelligence and courage. Benjamin Harrison, one of his ancestors, was a revolutionary patriot. He was one of the first men to declare in favor of the liberties of the colonists, rejecting the overtures of the Crown by which he had been offered a seat in the Executive Council. He was one of the seven delegates from Virginia to the Continental Congress, and one of the signers of the immortal Declaration of Independence. Wealthy as were nearly all of his compatriots at the beginning of hostilities with England, he unhesitatingly consecrated his possessions to his country, with them, finding himself hopelessly bankrupt at the close of the war. His son, William Henry Harrison, grandfather of our subject, who became Chief Magistrate of the United States, was born in poverty, and early compelled to seek his livelihood, having lost his father while yet a mere youth. He chose the profession of medicine, entered college to commence his studies, but before he had completed the course, the Indian War in the West was inaugurated with all the horrors of savage strategy. Inspired by military ardor, his books from that moment had no further attraction for him and he abandoned them for the excitement of the field.

Step by step he rose to the highest rank, at the close of his brilliant campaign returning to the quiet of civil life. The people, however, always enthusiastic over

military heroes, determined he should not be relegated to obscurity. Accordingly, on the 4th of December, 1839, at the National Whig Convention, which met at Harrisburg, Pennsylvania, he was nominated for the Presidency, and after one of the most exciting political contests ever known in this country, was elected, but lived only a month after he had assumed the duties of the great office.

Benjamin Harrison, the present Chief Magistrate of the Nation, is the son of John Scott Harrison, third son of General William Henry Harrison. John Scott Harrison was a man of quiet habits, passing most of his life in the retirement of his farm, in the Ohio valley. He represented his district two terms in the Lower House of Congress as a Democrat, was a strong supporter of the Union during the Civil War, and died in the spring of 1878.

His distinguished son was born in the house of his grandfather, at North Bend, Indiana, on the 20th of August, 1833. Here the early years of his life were passed, surrounded by pastoral scenes, as has been the fortune of many great men in their boyhood days. Such experience seems to be a source of intellectual inspiration, and certainly conducive of physical development, which the bustle and excitement of a city rarely fails to retard.

Under the guidance of a careful, prudent Christian mother, young Benjamin received the rudiments of an education which eventually ripened into an extensive scholarship. Through the influence of her religious training, he early developed a strong moral, devout, God-fearing character, from which he has never deviated unto this day.

His young life was somewhat like that of the immortal Lincoln's, without the desperate poverty which marked the latter's boyhood days. Young Harrison was a farmer's son, worked as farmers' sons were compelled

to work in those early times in the West ; fed the cattle, aided in the harvest-field, did the chores around the house and barn, never dreaming, perhaps, that one day he would be called to the highest place the people of this great country could summon him.

Like a majority of America's great men, his first school was the rude log-structure marking the primitiveness of educational facilities in the region. Where his home was situated was a "howling wilderness," to use a homely expression. From the log-school, when he had presumably advanced beyond the attainments of the rural teacher, he was advanced to a more pretentious room in his father's house, where, under the tutelage of a private instructor, he was initiated into the trials which all boys experience at the commencement of their classical studies. Soon he advanced another step ; he was sent with his brother to the so-called Farmers' College, near Cincinnati, where he remained two years.

At that time Miami University, at Oxford, was one of the most celebrated institutions of learning in the West. Here he was transferred to complete his college course, from which he was graduated on the 29th of June, 1852. His class furnished many famous men, both in law and politics. It numbered sixteen members, among whom in the order of graduation he ranked fourth. Milton Sayler stood at the head, the celebrated David Swing second. Mr. Harrison selected for his graduating thesis, "The Poor of England." Having to compete with the men named he must of necessity have been a hard student, for they, too, have become distinguished in their vocations.

In the town of Oxford, there was another institution of learning for young ladies. Its principal was Dr. John W. Scott. His daughter, Miss Caroline L. Scott, was a remarkably intelligent and attractive woman. Mr. Harrison became a frequent visitor at the fireside of the

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Scott's, and the friendship begun there ripened into love, resulting in his engagement at the age of eighteen.

After Mr. Harrison had been graduated, he began struggling with the world, entirely dependent upon his own resources. His father had previously accumulated considerable wealth for that era in our history, but lost nearly all of his possessions through mismanagement, and the endorsement of paper for his less fortunate neighbors. In consequence of these changed conditions, young Harrison had little respite from hard study; as he had chosen the law as a profession, it became necessary for him to prepare himself as soon as possible for admission to the Bar.

He entered the office of Storer & Gwynne. This firm had an excellent reputation, and the young student under the guidance of these gentlemen mastered the rudiments of the law, ever displaying that courage and fortitude which he has maintained from boyhood to the present time. Before he had completed his course of reading, notwithstanding his limited means, he married the one to whom he had pledged his love, taking his bride to his father's house where he continued his studies.

Successfully passing his examination, he was compelled to decide at once where he should enter upon the practice of his profession; a trying question for all lawyers starting out to battle with the world. He at last determined upon the flourishing embryo City of Indianapolis, to which place he repaired in the spring of 1854. His location decided upon, there came up before him, in all its hideous phases, as it has come to thousands of impecunious young lawyers, that horrible spectre of how to secure an office; how to suitably furnish it when secured. Harrison's condition financially at that period, was similar to those who have marched in the beaten pathway before him, and manifold thousands who will

come after him. In fact he was not able to purchase, rent or furnish, a respectable room. Finally a friend, the only acquaintance he had in the city, kindly shared his office with him, and soon his modest and unpretending "shingle" announced to the people that a new attorney had commenced the struggle in their midst. It must have been a surprise to many that another candidate for legal business had the temerity to come where the profession was apparently overdone. The self-reliant young Harrison, probably gave no thought to the real situation of affairs in Indianapolis. He was determined only to carve his way to recognition among the members of the Bar of the State. He soon made many friends; through their influence he was appointed Crier of the Federal Court at a salary of two dollars and fifty cents a day. The money he received for this service was the first earned since his arrival.

His first case in court was in defense of a man charged with the crime of burglary. Upon Mr. Harrison fell the duty to make the closing argument. He had made copious notes of all the evidence, intending to depend largely upon them for the text of his speech to the jury; but when the time arrived for him to begin his argument, in consequence of the dimly lighted court room, the trial taking place at night, he could not decipher his own manuscript. He had made a few impromptu remarks at the opening, then turning to his notes, found to his dismay he could not read a line of them. It was an embarrassing moment, but he was equal to the occasion. Flinging his useless notes on the table he depended entirely upon memory, made a better speech than he would have done otherwise, and won his case. After this, his first success, he was no longer briefless; cases came to him rapidly. With their determination in court came also reputation. About this time the Gov

ernor retained him as counsel in a Legislative investigation, which he carried to a successful issue.

In 1855 he was invited to become the partner of William Wallace, which connection was kept up for five years, when the firm of Harrison & Fishback was established. He is thus spoken of at this time, having gained a reputation as a lawyer: "Quick of apprehension, clear, methodical and logical in his analysis and statement of a case."

In 1854 a son was born, and then came the care of a family, and with it the desire to be in a home of his own. It was not a very pretentious place to which he took his young wife and her baby boy; it possessed but one story, contained only three rooms with a shed for a kitchen, but it was home. Here Mrs. Harrison for a long time did her own work, as well as taking care of her child, while the future President filled the water buckets, brought in enough wood to last until he returned from his office in the evening, and such other chores as were necessary for a young couple thus struggling to get on in the world, without possessing much of the world's goods. Of these times, President Harrison thus speaks: "They were close times, I tell you. A five dollar bill was an event. There was one good friend through it all, Robert Browning, the druggist. I shall always recollect him with gratitude. He believed in me. When things were particularly tight, I could go into his store and borrow five dollars from the drawer. A ticket in its place was all that he required."

In 1860, Mr. Harrison commenced his political life, which at fifty-five years of age elevated him to the Presidential office. He was nominated by the Republicans for the position of Supreme Court Reporter, at once entering upon an active canvass of the State. At the town of Rockville he met his opponent on the Democratic ticket, Thomas A. Hendricks, where, in joint debate, he

successfully replied to all the points made by that distinguished gentleman. Mr. Harrison was elected by a majority of nearly ten thousand, his Rockville address having gained him many adherents.

While serving the State as Reporter for the Supreme Court, the Civil War, was inaugurated. The latent military ardor born in the Harrisons developed itself and upon the appeal of the country for help, the future President promptly responded. He was appointed Second-Lieutenant in the Seventieth Regiment of Indiana Volunteers, in recruiting which he had been very active. The moment the Regiment was ready for service Governor Morton appointed Mr. Harrison its Colonel, and he immediately hurried forward to the seat of war in the South, reporting to General Don Carlos Buell, at Bowling Green, Kentucky.

Without going into the details of his military service in this sketch, which would be out of place, let it suffice to know that he was a brave and gallant soldier, as the following endorsements of his commanding officers testify. At the battle of Kenesaw Mountain and Peach Tree Creek, his gallantry called forth from General Joe Hooker, a communication to the Secretary of War: "I desire to call the attention of the Department to the claims of Colonel Benjamin Harrison, of the Seventieth Indiana Volunteers, for promotion to the rank of Brigadier-General of Volunteers. My attention was first attracted to this young officer by the superior excellence of his brigade in discipline and instruction, the result of his labor, skill and devotion. With more foresight than I have witnessed in any officer of his experience, he seemed to act upon the principle that success depended upon the thorough preparation in discipline and *esprit* of his command for conflict more than on any influence that could be exerted upon the field itself, and when collision came his command vindicated

his wisdom as much as his valor. In all of the achievements of the Twentieth Corps in that campaign from Chattanooga to Atlanta, Colonel Harrison bore a conspicuous part. At Resaca and Peach Tree Creek, the conduct of himself and command was especially distinguished." He was mustered out of the service on the 8th of June, 1865, with the Brevet of Brigadier-General, "for ability and manifest energy and gallantry in command of the Brigade."

General Harrison then returned to Indianapolis, re-assumed the duties of Reporter of the Supreme Court, to which he had been re-elected by an immensely increased majority over that of his first election. He served out the full term, but declined a re-nomination, preferring to resume the practice of the law, having been offered a partnership, before his return from the war, with Messrs. Porter & Fishback, which he accepted, the new firm being Porter, Harrison & Fishback.

During President Grant's administration, a curious case growing out of the fate of the war, occurred in Indiana. Lambdin P. Milligan, had been sent to the State's Prison on the charge of conspiracy against the United States Government. When released at the close of the war, he commenced suit against the Governor and others for damages sustained while working in the paint shops of the prison as an inmate. Thomas A. Hendricks appeared for the plaintiff, and President Grant appointed General Harrison for the defense. In this suit of National interest, General Harrison proved the fact of the conspiracy of the "Knights of the Golden Circle." The closing remarks of his argument in this suit are here presented to show his power of oratory, his lucid manner of argument, and choice language :

"The Nation, as the individual, through its officers, has the right to strike before it is struck. It is a right given from God. If a man is threatening my life, his

hand lifted with the dagger to strike me to the heart, I am not to wait until the blow is delivered. The law acquits me if I strike him dead at my feet. How much more shall these defendants stand acquitted before the courts and their fellow-men, who, seeing the deadliness of the peril, struck the treason before it could strike the Nation? I think I have shown you now, not merely that there was peril, but that from the information he had, Governor Hovey was justified in arresting Milligan and bringing him to trial before the Military Commission. If the State had broken out in rebellion and insurrection, and your own homes had been invaded by these ruthless men, your families outraged, insulted and slain, could you have ever forgiven the recreant Commander of the Department, who apprised of the danger, failed to interpose his military power? Senator Hendricks will have a great deal to say to you about the security which the Constitution guarantees to life, person and property. It is indeed a grand birthright that our fathers have given us; but, gentlemen, it was a legacy handed down to the loyal and law-abiding. The law covers with its broad and impenetrable shield, the true-hearted citizen, not the traitor and the law-breaker. Yet the gentleman comes to make appeals from a Constitution which his client would have destroyed, and in behalf of a liberty which would have been exercised for the destruction of our Government. He complains of a restraint which was in the interest of public peace. Listen to him, then; give your full accord to all he may say of the right of the citizen to be secure in person and property, but remember, those guarantees are to the loyal and the law-abiding.

“If his honor says to you that this question of the existence of war in the State is one for you, I ask you to take the definition of war given by Mr. Hendricks, and tell me on oath whether, in the summer of 1864, there was not a conflict of organized forces in the State of

Indiana; whether Governor Hovey, with home forces and the few veterans who were at home, was not arrayed upon the one hand, and if upon the other Bowles and Milligan and Horsey, with their secret legion of armed traitors, were not organized into an army within the State for the destruction of our Government? There was not more truly a state of war in Charleston harbor before the first gun was fired that hurled the first shot against Sumter, than existed in the State of Indiana at the time of which I am now speaking.

“And what less shall be said of the gentlemen who composed the Commission that tried the plaintiff? One of them, now the Marshal of this District, maimed for life, drags himself about, disfigured by the loss of a left arm. Yonder, on the bloody sides of the Kenesaw, he gave an arm, almost a life, for the country which he and these, his comrades, loved so well. While he lay upon the field bleeding, almost dying, here in Grand Council in the State of Indiana, Milligan and his associates were plotting treason; and now they seek to rob him of the little savings from the office which a grateful country and a President who honors his valor, have conferred upon him, in order to enrich traitors.”

In 1876, General Harrison declined the nomination for Governor, and Godlove S. Orth was then chosen. Before the election he was withdrawn from the ticket, and then General Harrison, though very reluctantly, permitted the use of his name. He was beaten by a plurality vote, running some 2,000 votes ahead of the remainder of the Republican ticket, attesting his personal popularity.

When General Garfield was elected President of the United States, he offered a Cabinet position to General Harrison, which he courteously declined. In the campaign of 1880, the Republicans again controlled the Indiana Legislature, which elected General Harrison United States Senator to serve from 1881 to 1887. His career

in the Senate was marked by an earnest effort in the direction of defining more clearly the rights of the workingman, or rather the enactment of such legislation as would guarantee the enjoyment of his inalienable privileges. Ever since General Harrison's college days, when he had made a special study of the poor people in England for the subject of his graduating oration, he has been strongly imbued with a desire to ameliorate the condition of the working classes in the United States. To this end he is a firm believer in the advantages of a high protective tariff for the laborer, and it is this fact which causes him to adhere so determinedly to the principle of "Protection."

In relation to Civil-Service Reform, of which he has always been a strong advocate, he said: "My brief experience at Washington has led me to utter the wish with an emphasis I do not often use, that I might be forever relieved of any connection with the distribution of public patronage. I covet for myself the free and unpurchased support of my fellow-citizens, and long to be able to give my time and energy solely to the public affairs that legitimately relate to the honorable trust which you have committed to me. It is easy for theorists to make suggestions upon this subject, which, in their opinion, would cure all existing evils. I assure you it is more difficult to frame a law that shall be safe and practical in its application."

On the subject of labor in its relations with railroad corporations, he said: "If any railroad or other business enterprise cannot earn enough to pay the labor that operates it and the interest on its bonds, no right-minded man can hesitate to say which ought to be paid first. The men who have invested money in the enterprise, or loaned money on its securities, ought to have the right to stop the business when net earnings fail; but they cannot fairly appropriate the earnings of

the engineer or brakeman or laborer. I believe the law should require the prompt payment of wages in money. I believe that the number of working hours can in most of our industries, be reduced without a serious loss to production, and with great gain to the health, comfort and contentment of our working classes. I advocated and voted for the law of Congress prohibiting the importation of laborers under contracts made abroad, and believe that such legislation was just and wise."

General Harrison's personal characteristics cannot be better understood than the description, by a college classmate, who thus writes of him: "Harrison, as I remember, was an unpretentious but courageous student. He was respectable in languages and sciences, and excelled in political economy and history; the former being largely due to the foundation laid under the instruction of Doctor Bishop at Farmer's College. Harrison had a good voice and a pure diction. He talked easily and fluently. His manner was indicative of much earnestness of character. He never seemed to regard life as a joke, nor the opportunities for advancement as subjects of sport. During the four years that I was with him, he impressed me with the belief that he was ambitious. As a writer and speaker, he always did his best. By this I mean that he, as a rule made special preparation, giving as much time as possible to the matter in hand. The subject of his graduating address was 'The Poor of England,' and his treatment of it showed that he had sounded both the depths and the causes of this poverty. He was a protectionist at nineteen. He is a protectionist still. His whole career has been illustrative of his desire to save his countrymen from the poverty which oppresses the poor of England."

When Crier in the Federal Court in Indianapolis he is described as follows: "He was small in stature, of slender physique, and what might be called a blonde.

His eyes were gray, tinged with blue, his hair light, reminding one of what in ancient days along the Wabash was more truly than poetically described as 'tow-head.' He was plainly dressed, and in that respect gave tokens of indifference to the canons of fashion. He was modest in manner, even diffident; but he had a pleasant voice and look, and did not lack for words to express himself."

General Harrison has twice been a delegate to the National Convention for the purpose of choosing a candidate for the Presidency, in 1880 and 1884. On both of these occasions he was mentioned in connection with the high office; on the first of which he received a few votes and then persisted in withdrawing his name. On the second he was again discussed seriously but was not really a candidate. From that time forward, however, he was often referred to as a strong candidate, and when the National Republican Convention met in Chicago, in June, 1888, he received eighty-three votes on the first ballot, ranking fifth on the list of candidates. Eight more ballots were taken, on the last of which, General Harrison received 544 votes, and was nominated as the standard-bearer in the impending campaign. In the National election, in the following November, General Harrison carried all the Northern States with the exception of New Jersey and Connecticut, receiving 233 electoral votes. He was inaugurated on the 4th of March, 1889, as the twenty-third President of the United States, and is now in the third year of his term. His administration will pass into history as one of great importance to the developement of the commercial greatness of this country. This is not the place and it is not the time to discuss this question; but it is not too much to say that never before in our history has more inspiring results followed so quickly the policy of an administration.

In the years that are to come there will be no remembrance of the unkind allusions made to him in these

days of vicious political strife. He will be portrayed as a valiant soldier, a great lawyer, a Christian gentleman and a model President, in all the days of his life, equal to the highest prosperity, and superior to the most distressing and bewildering adversity. Of his administration it will be said that he held the golden scepter of the Nation with a firm and untrembling hand, and performed every duty of his exalted office with a steadfastness and ability, that betokens the true American patriot, who loves his God and his country.







*Rich<sup>d</sup> B. Hubbard*

## RICHARD BENNETT HUBBARD.

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THIS eminent Southern advocate and orator was born in Walton county, Georgia, in 1834. His early education was of the best character the country afforded. At the youthful age of seventeen he was graduated with high honors by Mercer University, immediately after which he attended a course of law lectures at the celebrated University of Virginia. This completed, he entered the law school of Harvard, graduating in 1852. Shortly after finishing his studies, Mr. Hubbard removed to Tyler, Texas, where he opened an office, and has since resided. His talents and exceedingly agreeable manners brought him prominently into notice socially and in business. Cases came to him rapidly, his practice increasing in a constant ratio.

Politics from his earliest recollection possessed a charm irresistible in its power to draw him into the whirl and excitement of its spirit. Three years had scarcely elapsed before he began active participation in the State campaign of 1855, against the so-called *Know-Nothings*, the fallacious and ephemeral principles of which had invaded Texas. Of course his antecedents carried him into the ranks of Democracy, where the spell and effectiveness of his oratory entranced the people of the region wherever he spoke, assuring his own political preferment.

Very soon, at the earnest solicitation of the leading Democrats of his district, notwithstanding his extreme youth, he became a delegate to the National Convention which nominated James Buchanan for the Presidency.

Upon Buchanan's inauguration, through the intercession of General Rusk and J. Pinckney Henderson, he received the appointment of United States District Attorney for the Western District of Texas.

He served in that honorable and responsible position until 1858, when he resigned to accept the nomination of his party to the Legislature. Elected by an overwhelming vote, Mr. Hubbard again distinguished himself by his ability in debate and energetic committee work.

In 1860 he was a delegate from Texas to the National Democratic Convention which met at Charleston, South Carolina, where he earnestly supported John C. Breckinridge for the Presidency, and General Lane for the Vice-Presidency. During the spirited campaign which followed, Mr. Hubbard exercised all his skill to insure their election.

It was perfectly natural that Mr. Hubbard, an extreme Southerner by birth and education, should espouse the principles which actuated the people of his section of the country, in attempting to sever its connection with the Union. He believed firmly in the right of withdrawal, accepting the arbitrament of the sword as the only means left to decide the momentous question. At the outbreak of hostilities, he immediately recruited a regiment known as the Twenty-second Texas Infantry. He commanded, and served continuously with it, until the collapse of the Confederacy. Returning to the State of his adoption, he retired to his farm, directed his energies to agriculture until his political disabilities were removed, when he again devoted himself to the practice of his profession, to which he has since rigidly adhered.

In 1872, Mr. Hubbard was a Presidential Elector at large on the Greeley and Brown ticket. To his indefatigable energy and eloquence in the campaign, is due in a great measure the splendid vote Texas gave those gentlemen.

Two years later Mr. Hubbard presided over the State Convention which met at the Capital to nominate a full ticket. He was a prominent candidate for Governor, at the time polling the next highest vote to Mr. Coke, who received the nomination. He was then declared the unanimous choice of the Convention for its candidate as Lieutenant-Governor. At the election he received a majority of over 50,000 votes, a splendid compliment to his personal popularity.

According to the provisions of the Constitution of Texas, the Lieutenant-Governor is President of the Senate. Mr. Hubbard's course while acting in that capacity, was conspicuous for its impartiality, ability and knowledge of parliamentary law. So perfectly satisfactory was his conduct in affairs of State to the whole people, that at the next nominating convention, which met the following year, a new Constitution having abolished all offices necessitating another election, he was placed on the ticket for the same place, by acclamation. When the vote was canvassed, the result showed that Mr. Hubbard had doubled his former majority.

In the winter of 1876, Governor Coke was sent to the United States Senate, and Mr. Hubbard assumed Executive control by virtue of his office. During the occupancy of the gubernatorial chair, Texas received a fresh impetus to its commercial interests. He gave ample protection to the remotest border of the great Commonwealth, upon the assurance of which a mighty influx of immigration began, unparalleled in the history of the State. Previous to the date of Governor Coke's election, Texas had an unsavory reputation for lawlessness and crime. Immediately upon his accession to the Executive office he commenced an aggressive war upon the disturbing elements. When Governor Hubbard occupied his place, he faithfully continued the work formulated by his able predecessor for the suppression of such a deplor-

able condition of affairs, by his uncompromising and stern dealing with criminals, throwing an ægis of safety over the whole State, which resulted in new life in the development of its resources. On this account, if for no other, Governor Hubbard's administration will go down to history as the most effective in material benefit to the vast territory of which he was Chief Magistrate of any that preceded it. There were many other features of his excellent administration, which threw an equal luster and honor upon him as an Executive officer, of such an immense geographical area as Texas; an empire in itself, much larger than some of the most powerful monarchies of Europe. How well his administration was appreciated by the whole people, the following resolution adopted with but two dissenting votes, by the Democratic Convention of 1878, clearly affirms:

*“Resolved,* That it is the sense of this Convention that the administration of Governor Hubbard has been eminently wise and just; and that he deserves the unqualified approbation of the people of Texas.”

In his retiring message to the Legislature of the State he referred as follows to the new Constitution which had recently been adopted. “\* \* \* In principle, an organic law should be seldom interfered with by legislation, but should remain fixed and stable, to be studied and understood by the people, with the aid of constantly recurring expositions from our highest courts and wisest judges. Frequent changes tend to beget a spirit of unrest, and to induce a want of respect for that which has become the keystone of American Republicanism. A fixed written Constitution for each State and the Nation, constitutes the distinguishing characteristic of our system of Republican government, and the corner stone of our future hopes as a people. Let us not so act as to educate our people to look for constant change at each recurring session of the Legislature, but at the

same time let us not flinch from the responsibility of proposing such corrections as the necessities of the State imperatively demand at our hands."

During the Centennial year Governor Hubbard delivered an address at Philadelphia, in the interest of his State, which was extensively published in pamphlet form, widely circulated in this country and various portions of Europe. The result of this almost exhaustive exposition of the State's resources was manifested at once. Thousands flocked to the broad prairies of Texas in an irresistible tide, bringing with it the inauguration of an unprecedented era of prosperity. Three years later this address was repeated, with some modifications to suit the character of the audience, before the members of the Saint Louis Merchants Exchange, which resulted in the construction of the great Cotton Belt Railway, running from that City to Texarkana and on to the Rio Grande.

In 1880 Governor Hubbard was elected by the State Democratic Convention one of the delegates at large, to represent Texas in the National Democratic Convention, at Cincinnati. On that occasion he rose to great prominence by the delivery of two speeches before the Convention. One advocated the admission of the Tammany Hall delegates *pro rata*, the other seconding the nomination of General Hancock for the Presidency. Hancock had been nominated by Daniel Dougherty, in a brilliant five-minute speech. Mr. Hubbard immediately followed that transcendent orator and his passionate eloquence confirms that no one could have been selected from any portion of our country more fitted to second a nomination made by Daniel Dougherty. There are many who are fearless in their declaration that as an orator Governor Hubbard has not a superior. There are various styles of the art; talents vary as largely as do the tastes of audiences. Among the varying characteristics of oratory, there is one which never satiates; that is the "off-

spring of passion" as the inspiration of eloquence in the speaker. Mr. Hubbard possesses this style, which has earned him the compliment of the "Demosthenes of Texas." To be able to stir up men's souls, wring tears from the eyes of the multitude, invoke a spirit of patriotism and the best attributes of our nature, there must be something more in the orator than dry argument and cold logic. The power to reach into the very hearts of an audience is the secret of Mr. Hubbard's eloquence.

In 1884, Governor Hubbard was again sent as a delegate to the National Democratic Convention at Chicago, which nominated Grover Cleveland for the Presidency. On this occasion Mr. Hubbard was chosen its temporary chairman. The dignity with which he presided, his bearing throughout the trying ordeal of organization, and his parliamentary ability, brought him the respect of all who were present during the proceedings. The press was loud in his praise; one of the dispatches said of him at the time: "His portly appearance was accepted as typical of the grandeur of the event, and auspicious of the magnitude of the result."

During the exciting Presidential campaign of that year he was solicited by the National Democratic Committee to participate in the canvass of Indiana, in the cause of Cleveland and Hendricks. Mr. Hubbard promptly and cheerfully accepted this flattering call from the managers of his party, and wherever he appeared upon the stump, was received in the most gracious manner, his reputation as an orator having long since gone before him. His fine physique, genial address and courteous deportment won for him the enthusiastic admiration of his countrymen, irrespective of political predilections.

Upon the accession of Mr. Cleveland to the Presidency, he appointed Governor Hubbard United States Minister to Japan. The Legislature of Texas had pre-

viously requested Mr. Cleveland, by a unanimous endorsement, to call him to his Cabinet; he was also warmly advocated for the position by Vice-President Hendricks, and other prominent Democrats in all sections of the country.

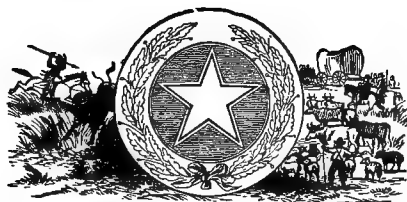
His record as a diplomat, was brilliant; his success in treating with the powers of the strange country to which he had been accredited, was remarkable. He negotiated the first Extradition Treaty with Japan, and signed an Independent Treaty in 1889. During his term as Minister, through his personal influence, the commercial interests between the United States and Japan were strengthened, and the trade increased many millions of dollars annually.

Mr. Hubbard possesses a giant physique, with a corresponding measure of intellect. As a lawyer he ranks high. It is a physiological fact that a great physical organization is nearly always closely allied to a wealth of brains. The rule holds good in Governor Hubbard's case.

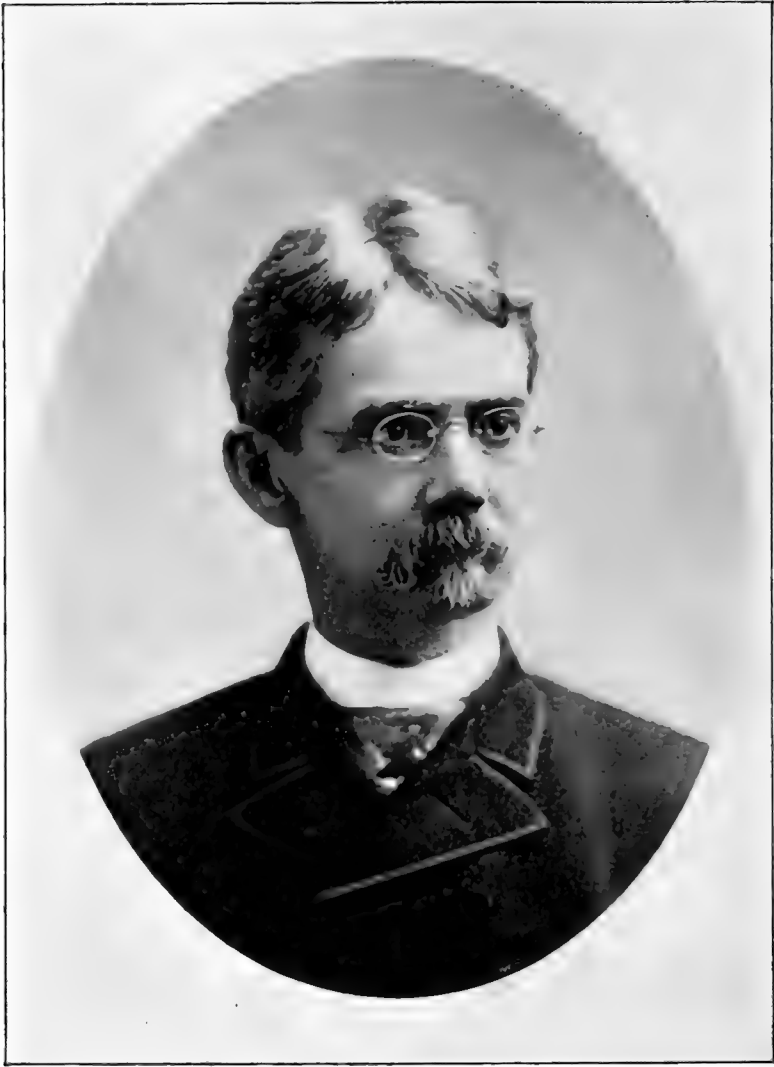
Mr. Hubbard is an industrious and painstaking worker; he has much to do in the domain of his profession connected with his duties as President of the Alexandria, Tyler & Northwestern Railway. Still in the prime of a vigorous manhood, there are years of usefulness before him; a host of friends to whom he has endeared himself by his sterling qualities and genial nature as a man.

He has been twice married. His first wife, Miss Eliza Hudson, was the daughter of a distinguished Alabama physician. She was a representative type of the Southern woman; educated, accomplished, handsome; endowed with that grace of manner and refinement symbolical of the warm latitude of her birth, she was an ornament to society and her loss irreparable. After years had softened his sorrow, Mr. Hubbard was married

to Miss Janie Roberts, a beautiful and accomplished lady of the Lone Star State, whose womanly qualities and Christian character has brought peace to his soul, felicity to his desolation, happiness and rehabilitation to his household.







John J. Ingalls.

## JOHN JAMES INGALLS.

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BY MAJOR HENRY INMAN.

SINCE the days of Webster and Clay, perhaps, no more conspicuous figure has appeared in the United States Senate than John J. Ingalls, of Kansas. For eighteen years, in the most illustrious deliberative assembly of modern times, his speeches have attracted the closest attention of the people by their fearless expression of thought, elegance of diction, phenomenal phraseology and forcible style.

Not even in the most felicitous days of the "Great Commoner," or of the "Sage of Marshfield," did the impetuous masses rush, jostle and surge, seeking an opportunity to listen to the words of those famous orators, as did the present generation to hear the Senator from Kansas. He who has been in the Capitol in Washington when it had been announced that Mr. Ingalls was to deliver a speech from his place in the Senate, will vividly recall the bustling, restless multitude on the campus, in the great entrances and the corridors of the vast structure, persistently contending for a position from which to see and hear the distinguished Kansan.

Mr. Ingalls is lineally descended, on both sides of his house, from New England's sturdy Puritan pioneers who landed at Plymouth on that dark December day in 1620. A prim, austere, scripture-loving ancestry which has given to its posterity in America, all that is illustrious in letters, religion, patriotism, oratory and statesmanship. That stern, rock-bound relatively barren region of the Atlantic coast, is the cradle of our country's

marvelous progress among the nations; we owe to its primitive European immigrants, those God-fearing, self-willed, doleful epitaphists, who builded wiser than they knew, more than this prodigal generation realizes. From their quaint conceits concerning religious liberty, education and government, have developed in less than 300 years, all that is good, practicable and wise in our peculiar American civilization.

Mr. Ingalls was born in Middleton, Massachusetts, on the 29th day of December, 1833. In some of the so-called biographical sketches which have appeared periodically and in the daily press, his father is referred to as a shoemaker; this is not true. It grew out of a tradition that there came over in the Mayflower with its cargo of persecuted mortality, "an Ingalls who was an humble maker of shoes." On this side of the sea, he is the most remote ancestor genealogical research has been able to discover, of the intellectual giant whose brilliant Senatorial career has brought such distinction and honor to the "Sunflower State."

Apropos of this story, a good anecdote is told of the Senator: During the administration of Mr. Cleveland, he dined one evening with the Endicotts, of Connecticut, who boast of their Puritan blue-blood. Mr. Endicott was then Secretary of War, and had gathered at his hospitable board many distinguished gentlemen. Before the ladies had retired, the conversation drifted upon the subject of the names of those who sailed for New England's bleak coast in the Mayflower, upon which the Senator casually remarked that he too had the honor of claiming for an ancestor one of those oppressed individuals—an Ingalls. The hostess who is an authority, has a carefully compiled register of the Pilgrims in that historic vessel always at her memory's command, meditated for an instant, then said that she could not recall an Ingalls among the distinguished names of the heroic pioneers.

"Probably not, madam," replied the Senator. "He was a shoemaker; and I am told he made most excellent shoes."

Mr. Ingalls attended the common schools, then entered Williams College, from which he was graduated in the class of 1855. He read law, was admitted to the Bar, but two years later, in 1858, seized with that insuppressible "hunger for the horizon"—a sentence of his own coining—emigrated to the politically-embroiled territory of Kansas before its translation to the relatively untroubled condition of statehood. From the date of his citizenship until 1873, he practiced law and was the recipient of various subordinate political honors. In the winter of that momentous year the Legislature elected him to the United States Senate, to succeed Samuel C. Pomeroy, who was then banished from service in the State's interests, the result of a political cataclysm unparalleled in the history of Kansas before or since, a State notorious for its bewildering surprises.

For eighteen years the great Commonwealth of Kansas has been represented in the United States Senate by such talents and intellectual brilliancy which rarely falls to the fortune of a state in these days of political decrepitude. On Mr. Ingalls' course during his long service in the Councils of State it would be supererogation to enlarge in this sketch; the intelligent American, whether he lives in Maine or Florida is somewhat familiar with it at least. So prominent, so distinguished, so universal his reputation over the country, he was the best-known man in public life. If anyone traveling by vestibuled train through the thickly settled Eastern States, by steamboats on the rivers, or with an ox-team on the remote prairie-trails, were asked who represented Kansas in the Senate, the invariable answer was "Ingalls," though the party could not name a Senator from any other State, perhaps forgetting who represented his

own. This has been tried scores of times with the same result.

As a parliamentarian Mr. Ingalls is without a superior. For a longer period presiding over the deliberations of the Senate than any other one man as its president, *pro tempore*, receiving the unanimous vote of both parties for the position, is an unparalleled tribute to his impartiality ability and familiarity with rules, precedents and fine points in parliamentary law ; nor must it be regarded as merely complimentary. In his position as President of the Senate, Mr. Ingalls was completely metamorphosed. He was as much of a surprise as a presiding officer, as were his methods of scalping an opponent by strictly parliamentary expressions from his place on the floor. He changed the old way of transacting business from its "long-hand manner to a system of short-hand," as some one has happily defined it. The calmness that marked his duties in the chair, compared with his restless energy and impatient treatment of opposition in debate, were as wide as "Indus from the pole."

As a designer of sentences he is incomparable. There are other American orators who are more eloquent in the rigid acceptance of the term, but in description, vigor, sparkling, passionate use of the English language, he occupies a position *sui generis*. He is the Cicero of this generation ; master of that most effective oratorical attribute in debate, sarcasm ; but absolutely devoid of the inordinate vaunting of his own powers which so marred the brilliancy of the immortal Roman.

Before a jury, as may be inferred, Mr. Ingalls is a power, though years have elapsed since he has made an appeal to "twelve men in a box ;" he never will again, in all probability, as he dislikes the practice of his profession. He is a good lawyer, but he is not partial to the solemn seriousness of its proceedings. In his primitive days, long before his splendid political ability was

recognized in Kansas, he had a large practice ; then it was necessity impelled him to work hard and zealously for "his daily bread ;" what he did was done with that dash, spirit and honesty of purpose which characterizes all his efforts.

As a politician, Mr. Ingalls is as well known as any in the country ; as a literary man, although now rapidly assuming a foremost position in the domain of letters, he was eclipsed by his public record. He is one of the most fascinating of writers ; to his purely literary work he brings all the brilliancy of his oratory, magnificent construction of sentences, wealth of phraseology. It is modified to suit the picture, though the coinage of a brain as fertile in imagery, delicate thoughts, and gentleness, as his political speeches are characteristic of the tomahawk and scalping knife. Some of his earlier effusions will live long after the generations of prominent men have been forgotten. His versatility is as remarkable as his wonderful power of expressing ideas. I here present a few extracts which establish his talent in this particular. They were written years ago in a magazine which had a limited circulation and a short life ; two or three volumes only, but they readily bring an hundred dollars to-day, and proud indeed is he who can boast of the possession of a set of the old "Kansas Magazine."

Of a Kansas winter day he thus writes :

"Attracted by the bland softness of an afternoon in my primeval winter in Kansas, I rode southward through the dense forest that then covered the bluffs of the North Fork of Wildcat. The ground was sodden with the ooze of melting snow. The dripping trees were as motionless as granite. The last year's leaves, tenacious lingerers, loth to leave the scene of their brief bravery, adhered to the gray boughs like fragile bronze. There were no visible indications of life, but the broad, wintry landscape was flooded with that indescribable splendor

that never was on sea or shore—a purple and silken softness that half veiled, half disclosed the alien horizon, the vast curves of the remote river, the transient architecture of the clouds, and filled the responsive soul with a vague tumult of emotions, pensive and pathetic, in which regret and hope contended for the mastery. The dead and silent globe, with all its hidden kingdoms, seemed swimming like a bubble suspended in an ethereal solution of amethyst and silver, compounded of the exhaling whiteness of the snow, the descending glory of the sky. A tropical atmosphere brooded upon an arctic scene, creating the strange spectacle of summer in winter, June in January, peculiar to Kansas, which, unseen, cannot be imagined, but once seen can never be forgotten.”

The following is from his article entitled “Blue Grass.” I regard it one of the finest of his compositions:

“Next in importance to the divine profusion of water, light and air, those three great physical facts which render existence possible, may be reckoned the universal beneficence of grass. Exaggerated by tropical heats and vapors to the gigantic cane congested with its saccharine secretion, or dwarfed by polar rigors to the fibrous hair of Northern solitudes, embracing between these extremes the maize with its resolute pennons, the rice plant of Southern swamps, the wheat, rye, barley, oats and other cereals, no less than the humbler verdure of hill-side, pasture and prairie in the Temperate zone, grass is the most widely distributed of all vegetable beings, and is at once the type of our life and the emblem of our mortality. Lying in the sunshine among the buttercups and dandelions of May, scarcely higher in intelligence than the minute tenants of that mimic wilderness, our earliest recollections are of grass; and when the fitful fever is ended, and the foolish wrangle of the market and forum is closed, grass heals over the scar which

our descent into the bosom of the earth has made, and the carpet of the infant becomes the blanket of the dead."

He thus describes the "Catfish Aristocrat of the Missouri Bottoms." This article made him many enemies who have never forgiven him :

"The catfish aristocrat is pre-eminently the saloon builder. Past generations and perished races of men have defied oblivion by the enduring structures which pride, sorrow or religion have reared to perpetuate the virtues of the living or the memory of the dead. Ghizeh has its pyramids; Petra its temples; the middle ages their cathedrals; Central America its ruins; but Pike and Posey have their saloons, where the patrician of the bottom assembles with his peers. Gathered around a rusty stove choked with soggy driftwood, he drinks sod corn from a tin cup, plays old sledge upon the head of an empty keg, and reels home at nightfall, yelling through the timber, to his squalid cabin. A score of lean, hungry curs pour in a canine cataract over the worm fence by the horse block, as their master approaches, baying deep-mouthed welcome, filling the chambers of the forest with hoarse reverberations, mingled with the explosion of oaths and frantic imprecations. Snoring the night away in drunken slumber under a heap of gray blankets, he crawls into his muddy jeans at sun-up, takes a gurgling drink from a flat black bottle stoppered with a cob, goes to the log pile by the front door, and with a dull ax slabs off an armful of green cottonwood to make a fire for breakfast, which consists of the inevitable 'meat and bread,' and a decoction of coffee burned to charcoal and drank without milk or sugar. Another pull at the bottle, a few grains of quinine if it is 'ager day,' a 'chaw of navy' and the repast is finished. The sweet delights of home have been enjoyed, and the spiritual creature goes forth, invigor-

ated for the struggle of life to repeat the exploits of every yesterday of his existence."

Of the landing of Regis Loisel, a French *voyageur*, on the right bank of the Missouri, in 1799, where Atchison, the home of the Senator stands, he says:

"For there were no taxes in that halcyon time, Larceny had not been legalized. Confiscation by statute, in time of peace, had not been invented. Ten per cent penalty and fifty per cent interest was the hope of thieves in their most daring dreams of speculation. The avarice and cupidity of that primitive epoch did not demand the sanction of law, but were content to evade its penalties. Strange as it may appear, no pompous official emerged from the thicket of elders and pawpaws to collect wharfage of Regis Loisel as he tied up his fleet at the steep levee, and his motley crew of *voyageurs* and *coureurs de bois*, scrambled up the crumbling bank, weary with rowing, cordelling and poling against the yellow current of the capricious and turbid stream."

In this manner he states the case of the Negro:

"Habituated to subordination for centuries, self-reliance, pride of race, authority, and the respect of nations can only come, if at all, after the labors, the struggles, and the discipline of centuries. It would be obviously unjust to measure the advance of the colored race by comparison with our own. Their condition should be contrasted with that of their contemporaries of the same ancestry in the tropical jungles of Africa, where they still subsist in indescribable degradation and inexhaustible fecundity. Measured by this standard, they have displayed an extraordinary aptitude for improvement. Under the harsh and repressive habitations of slavery, they ceased to be barbarians. In freedom, they have adopted with alacrity the ideas of home, the family, obedience to law, and the institutions of government. Bloody and superstitious fetichism and idolatry

have been succeeded by faith in immortality and belief in God, the sublimest conceptions that can be entertained by the soul of man. Their conduct has been characterized by eagerness for education, by a desire for the accumulation of property, and by a patient fortitude in adversity. They are ignorant and they hunger for knowledge. They are wretched and they thirst for happiness."

The sonnet, published in *Truth*, entitled "Opportunity," has traveled the world over; is admired by all:

" Master of human destinies am I !  
 Fame, love and fortune on my footsteps wait.  
 Cities and fields I walk : I penetrate  
 Deserts and seas remote, and passing by  
 Hovel and mart and palace, soon or late  
 I knock unbidden *once* at every gate !  
 If sleeping, wake : if feasting rise before  
 I turn away. It is the hour of fate,  
 And they who follow me reach every state  
 Mortals desire, and conquer every foe  
 Save death : but those who doubt or hesitate,  
 Condemned to failure, penury, and woe,  
 Seek me in vain and uselessly implore—  
 I answer not, and I return no more !"

He describes his poor white neighbors in Missouri as follows :

" A more inviting field for the utilitarian can not be imagined than one of the benighted border counties of Missouri, where climate, products, labor and tradition have conspired to develop a race of hard-visaged and forbidding ruffians, exhibiting a grotesque medley of all the vices of civilization unaccompanied even by the negative virtues of barbarism. To these fallen angels villainy is an amusement, crime a recreation, murder a pastime. They pursue from purpose every object that should be shunned by instinct. To the ignorance of the Indian they add the ferocity of the wolf, the venom of the adder, the cowardice of the slave. The contempla-

tion of their deeds would convince the optimist that any system of morals would be imperfect that did not include a hell of the largest dimensions. Their continued existence is a standing reproach to the New Testament, to the doctrines of every Apostle, to the creed of every church."

The same fascination which characterizes his purely literary efforts, are impressed upon his personal correspondence and his private conversation. In writing to me on one occasion some years ago when the early morning and evening sky throughout the world was conspicuous for that strange abnormal glow attributed to the eruption of Krakatoa, a volcano of the Sunda Islands, he said: "As I came out of the Senate Chamber to-night, the crimson glow fell upon the spires and turrets of the Smithsonian Institute and the Washington Monument like the architecture of a dream."

He has been accused of infidelity; he may be something of a mild agnostic, but that he believes in immortality, I am confident. Upon the death of my son a few years ago, aged about fourteen, he wrote me a consolatory letter in which he said that he would prefer to live in Hades forever, rather than to go down to annihilation; the idea of oblivion to him is abhorrent. I recall the most intensely sublime and impassioned conversation upon this subject that it has ever been my fortune to hear. It was nearly twelve years ago. He had finished a most brilliant political speech, before a vast audience who "hung breathless" on his burning words, in one of the busy towns on the line of the Santa Fe Railroad. The train which was to convey him to the Capital of the State did not leave until three o'clock in the morning. It was a delicious September night of the incomparable Indian Summer, for which the Great Plains are famous. He and I walked down to the bridge spanning the Arkansas, which was about a mile from the town, immedi-

ately after his audience had dispersed. The harvest-moon was at its full, casting a golden sheen upon the silent river as for hours we paced the long, noiseless stretch of timber. He had just lost a boy; his soul was attuned to the peacefulness of his surroundings and his heart filled with sorrow over the death of his son. Our conversation naturally drifted upon the immortality of the soul; there was no one else to hear the exquisite thoughts clothed in the most radiantly sublime language, that fell from the lips of the eloquent man at my side. If it be true, as science avers, that every vibration of the atmosphere is carried onward forever, then somewhere to-day in the region of space, is still heard the expression of those beautiful thoughts, rivaling in rhythmic measure the exquisite harmony of the celestial spheres.

His power of penetration to the very source of things, and the ease with which he absorbs the technical elements of a trade or profession, a secret of his wonderful versatility of information, is shown in the following personal recollection: One cold, wintry day in Washington, some years ago, I accidentally met an old friend on the street, Mr. Simmons, the celebrated American Sculptor, who had recently returned from Italy. A few hours later I met Mr. Ingalls at the door of the Senate just as the session was concluded. I asked him if he would be pleased to see Mr. Simmons. He said, "certainly, bring him up to my room this evening." I did so. We remained until the early hours of the next morning, Mr. Ingalls having become very much interested in the methods of the Sculptor's art, and, before he permitted his guest to take his departure, had learned everything connected with the profession, from quarrying the unchiseled marble, through all the multifarious manipulation of the various grades of artists, to the boxing and shipment of the created statue.

Mr. Ingalls is a lover of Nature in all her moods.

He dislikes the "madding crowd," is never in the enjoyment of greater happiness than when alone, or with some chosen friend, lying on the grass of the great prairies of his State, near the wooded margin of some stream, watching the squadrons of cranes dancing their wierd cotillions on the sand dunes, or the red-wattled buzzards circling high in air above him. His love for the unartificial is marvelous; to him when reading the *Bucolics* of Virgil, if from the window of his study or a secluded spot under the grateful shade of some gnarled old tree, he can see the waving grain, flocks of sheep, and cattle quietly grazing in the stillness of their surroundings, the words of the immortal poet have a deeper significance, a grander charm.

To those who may claim his friendship, he is a most congenial and affable companion. He is a good listener, a characteristic which under some circumstances detracts from many who are regarded as brilliant conversationalists; that class of talkers who never give their friends a chance. Mr. Ingalls, however, delights in the style of verbal intercourse where every one present is expected and permitted to take part.

Mr. Ingalls' physical characteristics are as difficult to intelligently describe as are those of his phenomenal intellect. I am indebted to a mutual friend, Mr. Charles S. Gleed, of Topeka, for the best pen-picture I have ever seen, which is here introduced at length. It is strangely truthful, and possesses in the construction of its language a thoroughly Western style of authorship, born of the boundless prairies:

"Mr. Ingall's personal appearance is remarkable. His height is over six feet, and his weight perhaps one hundred and forty pounds. He is as gracefully straight as a sunflower stalk, and as conspicuous among men as a sunflower among dandelions. His hair is silvery, stiff, disheveled. He looks old, yet is strong and lusty, hav-

ing never in youth 'applied hot and rebellious liquors to his blood.' His head is high behind and deep from forehead to back, giving the impression of great length from the chin upward and backward. Below his forelock of wire-silver is a face dark and angular, suggesting Spanish blood, and his audacious mustache and the impudent tuft on his under lip do not belie the suggestion. His eyes may be 'red, white and blue,' like his necktie, for all anybody knows. They are hidden behind the most brilliant eye-glasses that ever disconcerted an interlocutor. His hands are bony, and when his long-jointed fingers twine about his pen, the only result to be expected is the extraordinarily beautiful manuscript which he always turns out. He could not well spare a single ounce of flesh, and his body has the lithe, firm looseness of a professional contortionist. Lean as he is, his clothing always seems to fit perfectly and is always graceful.

"His voice is a polished ramrod of sound, without fur or feathers, traversing space as swiftly as light, without a whir or a flutter, as if shot by an explosive of inconceivable power. The man who is hit has no doubt about the explosive. 'The plain descriptions of the Southern outrages and the Southern episodes, in the Ingalls voice and manner, caused the audience to shudder,' wrote a New York reporter who had not shuddered for so long that he hardly knew how. On this occasion the ramrod voice hit Senator George, and the reporter goes on to describe the 'half-defiant, half-startled glare' which the stricken Senator, with the ramrod through his soul, aimed at the author of his misery. It is this vocal endowment that helps make Mr. Ingalls as competent a presiding officer as any deliberative body the world ever had. The voice is only part, but it is important. Other factors are namable. His mind works with the quickness, force and perception of a steel trap, and, I may add, with the loud report and fatal effect thereof."

Mr. Ingalls can no easier divest himself of the thralldom of his long line of deeply religious ancestry, than can the Hindoo of the Karma of his Buddhistic creed. He may have modified the terrible orthodoxy of his Puritan progenitors by the independence of his power to ratiocinate, but underlying his apparently antipodean nature there is an earnest love for the right because it is right; for the maintenance of which he would suffer martyrdom like Wyckliffe or Huss, for conscience sake. The current idea of those who do not know him except as a gladiator in the political arena, that he is a rank infidel of the Ingersoll order, is the sheerest nonsense. True he has no faith in the dogmas of any church, but his religion is a decided improvement upon the superstition of his ancestors because it is pure and natural.

He is an owl in his methods of occupying time in which to labor. Dining at six o'clock, the ensuing quarter of the day is the period in which his brain responds most readily to the demands he makes upon it. Then under the inspiration of the midnight lamp are evolved those thoughts which he clothes in his magnificent language. He never smokes during the sunny hours, but when darkness comes on, he lights a cigar when he lights his lamp, consuming as rapidly as his thoughts flow as many as will last until midnight, his hour for retiring.

Endowed with enough of this world's goods to place him beyond the possibility of worry for the demands of the morrow, he lives a life of generous ease. Of ease, because to him nothing seems to be a labor. If he were not independent of the common "struggle for bread and butter," an hour or two at his desk would suffice to throw off a manuscript worth an hundred dollars, for his manuscript has an immediate commercial value far in excess of the ordinary man of letters.

He possesses a beautiful home, "Oak Ridge," near

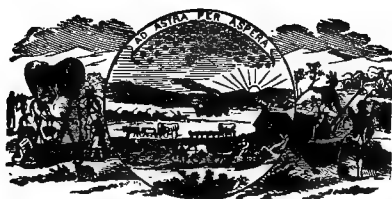
Atchison, which is the abode of refinement, culture and a generous hospitality. There, where the *Lares* and *Penates* of his hearth are the affection, sympathy and devoted alliance of a charming family, he is the Ingalls of private life to his limited number of friends, friends in the restricted sense of cordial intimacy, though his acquaintances are many.

He has a relatively large display of "olive branches," sons and daughters, from the age of twenty-five to the baby of six or seven. His wife, a fair, prepossessing woman with all the graces characteristic of the educated American lady, a favorite of society, who also in her motherly qualities emulates Cornelia, the noble consort of Gracchus, is a fit companion of the distinguished husband whom she honors. One of their daughters has already acquired some reputation in the field of literature, with the promise of a brilliant future, upon whose shoulders has fallen the mantle of her father's genius. Their sons have either been graduated or are now attending college. The eldest is a practicing lawyer, another preparing for the profession.

Mr. Ingalls' retirement from active politics was one of the surprises which occasionally fall to the fortunes of enigmatical Kansas. It was a defeat with more honor and glory, paradoxical as it may seem to the uninitiated, than victory to the ordinary candidate. No man ever doffed the toga of senatorship so deeply regretted by the people throughout the country. It may be said to be the story of Jupiter and the frogs re-enacted in the nineteenth century.

He has nothing unkind to say of his defeat. He succumbed as gracefully and cheerfully as any political opponent in times past ever did to him. To use his own words, he was a "victim of the passions of an epoch." "The State," he said, "had undergone a peaceful revolution." This is the strongest language he has ever

employed in referring to it. He does not seem to regard the authors of his defeat as political opponents. He seems to either care nothing for his retirement, or regards his opponents with compassion and pity. Neither does he repine when even now assailed in private life. He steadily pursues the avocation of literature, not stopping to snap or snarl, not even deigning to notice the vicious mutterings around him. It is just as though these imprecations and maledictions were never spoken, for they become enveloped and lost in the reverberation and repercussion of the skies.







*R. G. Ingersoll*

## ROBERT GREEN INGERSOLL.

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THE biography of this distinguished lawyer and orator has never been written—none can be which will satisfy the public until he shall have crossed the boundary separating the known from the unknown. To omit Robert G. Ingersoll from a list of distinguished American lawyers, however, would be an omission verging upon culpability. This recital, of necessity, therefore, is but an abridgement. When he shall have reached that hour, to quote his own eloquent words in which, “hope sees a star and listening love can hear the rustle of a wing,” his biographer will have an opportunity to write truthfully the record of his life.

He was born in Dresden, New York, on the 11th of August, 1833. He is now in the very prime of magnificent manhood. His father was a minister of the Congregational Church; a man of remarkably liberal views for the time in which he lived.

From this fact it has been claimed his brilliant son drew the inspiration of his opposition to the dogmas of the Christian religion. This is not true. Those who have been intimate with the history of Colonel Ingersoll from infancy, declare that he was an original thinker from his earliest childhood; that he never accepted, in the slightest degree, a belief in the faith of his father, with whom he had frequent discussions before he had arrived at the age of ten. Mr. Ingersoll's brother often related the spirit of these talks with their father, when he and the brilliant Robert were mere children. It is

related that on one occasion the old gentleman became very angry at his son's persistent fault of not agreeing with him upon the infallibility of the tenets of the Church, upon which the boy replied: "Well, Father, if you want me to lie, you may make me pretend to believe as you do; but if you want me to be honest, I must talk as I do." The father reasoned no more. He regarded his son with greater affection, preferring that his boy should be truthful rather than hypocritical.

In 1843 the family emigrated to Wisconsin and Illinois. The region was a relative wilderness; the "far west" of the period. Robert commenced to read law, in due time was admitted to the Bar, upon which, in conjunction with his brother Ebon, he opened an office in Shawneetown, Illinois. The brothers immediately took an active part in local politics, but the surroundings of their new home were not congenial to the progressive spirit of their nature, so in 1857, they removed to Peoria, in the same State. Having become thoroughly settled, Robert was nominated by the Democrats for the Lower House of Congress, but was defeated at the polls.

In 1861, at the outbreak of the Civil War, he was appointed Colonel of the Eleventh Illinois Cavalry. A year and a half later he affiliated himself politically with the Republican party, to which he has ever since been a devoted adherent, a most brilliant champion of its principles.

An anecdote related of him during his military career, will not be irrelevant at this juncture: On one occasion he was ordered to guard a ford with his command. His instructions were to delay the advancing army of the Confederates as long as possible. The enemy came upon him with such an overwhelming force that there was no course left but to give the order to retreat; every man to do the best he could to avoid capture. As Ingersoll was riding away with his command

as fast as it could get over the ground, his horse stumbled and threw him. It was in a wooded lane. The bullets struck the logs around him in a perfect shower. Looking from his place on the ground he discovered three Confederates raise their carbines simultaneously and deliberately aim at him. With his characteristic quickness and presence of mind, he shouted at the top of his voice: "Hold on there! Don't make damned fools of yourselves! I've been doing nothing else for the last five minutes but wishing for a good chance to recognize your damned Confederacy!" An officer arriving on the spot at this instant ordered the men not to fire, and they all laughed heartily at the unknown Yankee's impudence, then took him prisoner.

It was General Forrest who had captured him. He was then, as he has ever been, one of the best conversationalists in the country, consequently he soon became a great favorite in the camp of the Confederate General. It is alleged that he became so popular Forrest feared he would take off his own men with him, so he caused the now famous Ingersoll to be paroled as quickly as possible. He then left the service and returned home. At one time, in conversing with his lecture agent about this incident, he said, "that he was never intended for a soldier. He never saw his men under fire, that he did not think of the widows and orphans they would make, and wished they would miss!"

In 1866, Colonel Ingersoll was appointed Attorney General for the State of Illinois. He soon became famous as an orator all over the United States, and was in demand upon the stump in every Northern State. At the National Republican Convention, in 1876, he nominated James G. Blaine for the Presidency in a speech that for eloquence is unsurpassed in the history of nominating conventions. A year later he was offered the Mission to Germany, but declined the honor.

He became the greatest Lecturer in the country, and his reported talks from the rostrum of the halls fill volumes. Among his most noted are : "Mistakes of Moses," "Skulls," "Ghosts," "Hell," and dozens too numerous to recite their titles here. His great political speeches are among the most remarkable for their logic, wit and irresistible chain of reasoning that have ever been delivered in the whole country. In the lecture room, on the stump or before a jury he is far-famed and celebrated. His power over a jury by his matchless eloquence, equals anything in the records of any other civilized nation.

Once when a farmer was on trial for murder whom Colonel Ingersoll was defending, the forcible advocate presented the condition of his wife and children at that moment at their home, he had refused to allow them in the court room, in this strong language : "Even at this moment his loving wife is standing at the door, with the sunlight on her face, waiting to welcome her husband back to his fireside. The little boys are swinging on the gate, and looking from time to time along the road, expecting to see him come, and jump into his arms and kiss him. And won't you let him go home?" The jury with moist eyes were straining forward in their seats to catch every word that fell from the great advocate's lips as they thought of nothing but the distressed little family in their sorrow. Suddenly, the foreman, a great-hearted sturdy farmer, with the tears streaming down his sunburnt cheeks—as if the question had been asked for immediate information—noded affirmatively, and said : "Yes, Bob, we'll let him go home to them." Mr. Ingersoll had not half completed his argument, but sat down at once. A long speech was made by the opposing attorney in reply, but he could not alter the effect of that simple appeal to the jury and the defendant was acquitted.

To attempt to select the choicest gems of his oratory for presentation here, would be like essaying to gather

the beams of the morning sun, as they glint from crag to pinnacle on a lofty mountain chain; all he has ever uttered for liberty in the lecture-room, on the political rostrum for the rights of man, or at the last retreat of mortality from the earth, is redolent with radiant eloquence.

As a lawyer, Colonel Ingersoll's practice ranks in magnitude with the greatest in the country. He has appeared in some of the most important causes that have ever been brought to trial. The most famous, perhaps, was his defense of Dorsey in the "Star Route Conspiracy." Before he took up his residence in New York City, where he still makes his home, he was a railroad lawyer, and in connection with his brother did an immense business. He devotes a great deal of his time to lecturing, and the demand for his services is great.

It is a difficult task to select what may be considered the best of Colonel Ingersoll's oratorical efforts; opinions differ upon the subject according to the individual taste. The individual person is his own critic, irrespective of what others may think. We have selected some extracts which are conceded to be by all, masterpieces in their peculiar character. His oration at a child's grave is one of the most beautiful and touching of all his impromptu effusions. The story itself is charming in its simplicity under the circumstances of its occurrence:

"In a remote corner of the Congressional Cemetery in Washington one afternoon in June, 1876, a small group of people with uncovered heads were ranged around a newly opened grave. They included Detective and Mrs. George O. Miller, family and friends who had gathered to witness the burial of the former's bright little son Harry, a recent victim of diphtheria. As the casket rested upon the trestles, there was a painful pause, broken only by the mother's sobs, until the undertaker advanced toward a stout, florid-complexioned gentleman in the

party and whispered to him, the words being inaudible to the lookers on. This gentleman was Colonel Robert G. Ingersoll, a friend of the Millers, who had attended the funeral at their request. He shook his head when the undertaker first addressed him, and then said suddenly, 'Does Mrs. Miller desire it?' The undertaker gave an affirmative nod. Mr. Miller looked appealingly toward the distinguished orator, and Colonel Ingersoll advanced to the side of the grave, made a motion denoting a desire for silence, and in a voice of exquisite cadence, delivered one of his characteristic eulogies for the dead. The scene was intensely dramatic. A fine drizzling rain was falling; every head was bent, every ear turned to catch the impassioned words of eloquence and hope that fell from the lips of the famed orator. Colonel Ingersoll was unprotected by either hat or umbrella, his invocation thrilled his hearers with awe; each eye that had previously been bedimmed with tears brightened, sobs becoming hushed." Colonel Ingersoll said:

'My friends, I know how vain it is to gild a grief with words, and yet I wish to take from every grave its fear. Here in this world, where life and death are equal kings, all should be brave enough to meet what all have met. The future has been filled with fear, stained and polluted by the heartless past. From the wondrous tree of life the buds and blossoms fall with ripened fruit, and in the common bed of earth, patriarchs and babes sleep side by side. Why should we fear that which will come to all that is! We cannot tell. We do not know which is the greatest blessing, life or death. We cannot say that death is not good. We do not know whether the grave is the end of life or the door of another, or whether the night here is not somewhere else a dawn. Neither can we tell which is the more fortunate, the child dying in its mother's arms before its lips have learned to form a word, or he who journeys all the length of life's uneven

road, painfully taking the last slow steps with staff and crutch. Every cradle asks us 'Whence!' and every coffin 'Whither!' The poor barbarian weeping above his dead can answer the question as intelligently and satisfactorily as the robed priest of the most authentic creed. The tearful ignorance of the one is just as consoling as the learned and unmeaning words of the other. No man standing where the horizon of a life has touched a grave, has any right to prophesy a future filled with pain and tears. It may be that death gives all there is of words to life. If those who press and strain against our hearts could never die, perhaps that love would wither from the earth. May be a common faith treads from out the paths between our hearts the weeds of selfishness, and I should rather live and love where death is king than have eternal life where love is not. Another life is naught, unless we know and love again the ones who love us here. They who stand with breaking hearts around this little grave need have no fear. The largest and the nobler faith in all that is, and is to be, tells us that death, even at its worst, is only perfect rest. We know that through the common wants of life, the needs and duties of each hour, their grief will lessen day by day until at last these graves will be to them a place of rest and peace, almost of joy. There is for them this consolation: The dead do not suffer. If they live again their lives will surely be as good as ours. We have no fear; we are all children of the same mother and the same fate awaits us all. We, too, have our religion, and it is this: 'Help for the living, hope for the dead.'"

Colonel Ingersoll's funeral oration at the grave of his dearly loved brother, Honorable Ebon C. Ingersoll, on the 2d of June, 1879, is another of his most eloquent efforts. The ceremonies of the interment were of the simplest character, in accordance with the wish of the deceased. Many personal friends were present. It was

a trying moment for the orator, whose love for the one over whose remains he was to perform the last sad office, was something more than the usual fraternal regard. It was with difficulty that he could restrain his emotions. His eyes filled with the tears of deepest sorrow which he vainly essayed to suppress, and at last he dropped his head on the coffin, overcome by his manly grief. Some time elapsed before he could sufficiently recover to commence. He said:

"My Friends: I am going to do that which the dead often promised he would do for me. The loved and loving brother, husband, father, friend, died where manhood's morning almost touches noon, and while the shadows still were falling toward the West. He had not passed on life's highway the stone that marks the highest point, but being weary for a moment he laid down by the wayside, and using his burden for a pillow, fell into that dreamless sleep that kisses down his eyelids still. While yet in love with life and raptured with the world, he passed to silence and pathetic dust. Yet, after all, it may be best, just in the happiest, sunniest hour of all the voyage, while eager winds are kissing every sail, to dash against the unseen rock, and in an instant hear the billows roar a sunken ship. For, whether in mid-sea or among the breakers of the farther shore, a wreck must mark at last the end of each and all. And every life, no matter if its every hour is rich with love and every moment jeweled with a joy, will, at its close, become a tragedy, as sad, and deep, and dark as can be woven of the warp and woof of mystery and death. This brave and tender man in every storm of life was oak and rock, but in the sunshine he was vine and flower. He was the friend of all heroic souls. He climbed the heights and left all superstitions far below, while on his forehead fell the golden dawning of a grander day. He loved the beautiful, and was with color, form and music touched to

tears. He sided with the weak, and with a willing hand gave alms; with loyal heart and with the purest hand he faithfully discharged all public trusts. He was a worshipper of liberty and the friend of the oppressed. A thousand times I have heard him quote the words: 'For justice all place a temple and all season summer.' He believed that happiness was the only good, reason the only torch, justice the only worshipper, humanity the only religion, and love the priest.

"He added to the sum of human joy, and were every one for whom he did some loving service to bring a blossom to his grave, he would sleep to-night beneath a wilderness of flowers. Life is a narrow vale between the cold and barren peaks of two eternities. We strive in vain to look beyond the heights. We cry aloud, and the only answer is the echo of our wailing cry. From the voiceless lips of the unreplying dead there comes no word; but in the night of death hope sees a star and listening love can hear the rustle of a wing. He who sleeps here, when dying, mistaking the approach of death for the return of health, whispered with his latest breath, "I am better now." Let us believe, in spite of doubts and dogmas and tears and fears, that these dear words are true of all the countless dead. And now, to you who have been chosen from among the many men he loved to do the last sad office for the dead, we give his sacred dust. Speech cannot contain our love. There was—there is—no gentler, stronger, manlier man."

Of all that Colonel Ingersoll has ever uttered on any occasion, his address to the veteran Union soldiers at Indianapolis, is regarded by nearly all, without any reservation, as his masterpiece of eloquence. It was the colossal effort of his life; the grandest example of elevated and sublime thoughts of which the English language is susceptible. He said:

"The past, as it were, rises before me like a dream

Again we are in the great struggle for National life. We hear the sound of preparation, the music of the boisterous drums, the silver voices of the heroic bugles. We see thousands of assemblages, and hear the appeals of orators. We see the pale cheeks of women, and the flushed faces of men, and in those assemblages we see all the dead whose dust we have covered with flowers. We lose sight of them no more. We are with them when they enlist in the great army of freedom. We see them part with those they love. Some are walking for the last time in the quiet woody places with the maidens they adore. We hear the whisperings and the sweet vows of eternal love as they lingeringly part forever. Others are bending over cradles kissing babies that are asleep. Some are receiving the blessings of old men. Some are parting with mothers who hold them and press them to their hearts again and again, and say nothing; and some are talking with wives, and endeavoring with brave words spoken in the old tones, to drive away the awful fear. We see them part. We see the wife standing in the door with the babe in her arms—standing in the sunlight sobbing; at the turn of the road a hand waves; she answers by holding high in her loving hands the child. He is gone, and forever.

“We see them all as they march proudly away under the flaunting flags, keeping time to the wild grand music of war, marching down the streets of the great cities, through the towns and across the prairies, down to the fields of glory, to do and to die for the eternal right.

“We go with them one and all. We are by their side on all the gory fields, in all the hospitals of pain, on all the weary marches. We stand guard with them in the wild storm and under the quiet stars. We are with them in ravines running with blood, in the furrows of old fields. We are with them between contending hosts, unable to move, wild with thirst, the life ebbing slowly

away among the withered leaves. We see them pierced by balls and torn with shells in the trenches of forts, and in the whirlwind of the charge, where men become iron with nerves of steel. We are with them in the prisons of hatred and famine, but human speech can never tell what they endured.

"We are at home when the news comes that they are dead. We see the maiden in the shadow of her sorrow. We see the silvered head of the old man bowed with the last grief.

"The past rises before us, and we see 4,000,000 of human beings governed by the lash; we see them bound hand and foot; we hear the strokes of cruel whips; we see hounds tracking women through tangled swamps. We see babes sold from the breasts of mothers. Cruelty unspeakable! Outrage infinite!

"We see 4,000,000 bodies in chains, 4,000,000 souls in fetters. All the sacred relations of wife, mother, father and child, trampled beneath the brutal feet of might. And all this was done under our own beautiful banner of the free.

"The past rises before us. We hear the roar and shriek of the bursting shell. The broken fetters fall. There heroes died. We look. Instead of slaves we see men and women and children. The wand of progress touches the auction-block, the slave-pen, and the whipping post, and we see homes, and firesides, and school-houses, and books, and where all was want and crime, and cruelty and fear, we see the faces of the free.

"These heroes are dead. They died for liberty; they died for us. They are at rest. They sleep in the land they made free, under the flag they rendered stainless, under the solemn pines, the sad hemlocks, the tearful willows, the embracing vines. They sleep beneath the shadows of the clouds, careless alike of sunshine or storm, each in the windowless palace of rest. Earth may

run red with other wars; they are at peace. In the midst of battle, in the roar of conflict, they found the serenity of death. I have one sentiment for the soldiers living and dead: Cheers for the living and tears for the dead. \* \* \* \*

Referring to this address, Colonel Ingersoll tells the story of what he considers the greatest compliment paid him. He says he was strolling about the lobby of the Grand Pacific Hotel in Chicago one evening after supper, smoking a cigar, waiting for some friends with whom he was going out to spend the hours before the time for retiring. He saw a vacant chair and sat down in it. Presently he was accosted by a man who was sitting near trying to smoke, but was pretty drunk. He observed that he was crying. He said to the Colonel:

"Stranger, did you ever read that?" pointing to a poster six feet long and three and one-half feet wide hanging against the office wall, giving the dream or the vision portion of the Indianapolis address, which he had delivered on the 21st of September, 1875, a short time before.

"Yes," replied Colonel Ingersoll, "I have read it."

The fellow sobbed away for a few moments longer, then continued:

"Stranger, do you know what I think?"

"No," answered the Colonel; "what do you think?"

"Well, sir, I have a copy of that bill hanging in my store at Tuscola, Illinois, and I watch every man that comes in to read it, and I tell you any man that can read that through and not cry, is a—— —and I would not trust him any further than I could throw a male bovine by the tail. I tell you his heart is not in the right place."

The Colonel says: "If that man did not know who I was, and I do not believe that he did, it is the greatest compliment I ever had paid me."

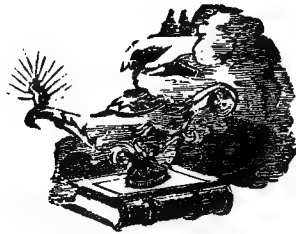
In discoursing of great men, he said: "It is often said of this or that man, that he is a self-made man, that he was born of the poorest and humblest parents, and that with every obstacle to overcome he became great. This is a mistake. Poverty is generally an advantage. Most of the intellectual giants of the world have been nursed at the sad but loving breast of poverty. Most of those who have climbed highest on the shining ladder of fame, have commenced at the lowest round. They were reared in the straw-thatched cottages of Europe; in the log houses of America; in the factories of the great cities; in the smoke and din of labor, and on the verge of want. They were rocked by the feet of mothers whose hands, at the same time, were busy with the needle or the wheel.

"Great men do not live alone; they are surrounded by the great; they are the instruments used to accomplish the tendencies of their generation; they fulfill the prophecies of their age.

"Through all the centuries gone, the mind of man has been beleaguered by the mailed hosts of superstition. Slowly and painfully has advanced the army of deliverance. Hated by those they wished to rescue; despised by those they were dying to save, these grand soldiers; these immortal deliverers, have fought without thanks; labored without applause; suffered without pity, and they have died execrated and abhorred. For the good of mankind they accepted isolation, poverty and calumny. They gave up all; sacrificed all; lost all but truth and self-respect."

Orators are not always born. Still it may be an assertion too broad to aver that oratory is an art rather than a gift. Many brilliant in letters and mind could never become orators, however much their application. It is safe, we think, to state that the possession of certain faculties not recognized as oratorical gifts, can by unre-

mitting toil be developed into the elements of true oratory. One gifted with a delivery that cultivation will perceptibly improve, and possessed of a nature capable of inspiring earnestness and enthusiasm, and a fair love of language, combined with industry, can undoubtedly become an orator in the modern acceptance of the term. Such orators, however, as Daniel Dougherty, Ingalls, Ingersoll and Hubbard of this generation, Clay, Webster, Choate and others of the past, Edmund Burke of England, Cicero of Rome, and even Demosthenes of Greece, unquestionably possessed the natural gifts of oratory in an eminent degree. Tastes invariably differ as to the respective merits of each, but all concede that Robert G. Ingersoll is among the greatest orators the world has ever produced.







Rory Johnson

## REVERDY JOHNSON.

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LIKE Sir Isaac Newton, in the domain of science, Reverdy Johnson, in the law, was without a superior. Among the generations of great counselors and advocates which the world has produced, he occupied a position which has never been surpassed by any other in the history of civilized nations. For sixty years, against all competitors, he held his place in the sphere of jurisprudence.

He was born within a few hundred yards of where he died, in Annapolis, Maryland, on the 21st of May, 1796. He was educated at Saint John's College, in his native town. Began the study of law at the early age of seventeen, in his father's office, John J. Johnson, who was Chancellor of the State. He was admitted to the Bar when only nineteen, began the practice in Baltimore on the attainment of his majority, to which place he had removed after his admission. Soon he became an acknowledged leader, and his fame as an advocate spread all over the country. For a short time before his removal to Baltimore he was Deputy Attorney General for the District in which Upper Marlborough is located, where his father was the Presiding Justice.

In 1820, aided by Mr. Thomas Harris, he commenced to report the decisions of the Maryland Court of Appeals, which are contained in seven volumes. These works cover the period from 1820 to 1827, and are officially known as "Harris and Johnson's Reports."

In 1821 Mr. Johnson was elected to the State Senate for four years, and at the expiration of his term was re-elected. His course in the State Senate is marked by that wisdom and knowledge of the principles of our Government, for which he was famous during his long life. In 1845 he represented Maryland in the United States Senate as a Whig. He served but four years, having received from President Taylor the appointment of Attorney General.

On the death of the President, and Mr. Fillmore's accession to the Chief Magistracy, Mr. Johnson of course resigned, returned to Baltimore, again resuming the practice. Mr. Johnson devoted much of his time to arguing cases before the Supreme Court of the United States. More of his arguments will be found in the Reports of that Court than of any other advocate in the country. As a great Constitutional lawyer Mr. Johnson's name will descend to posterity among the most brilliant of all that have appeared since the establishment of the Republic. In the domain of Constitutional law no one out-ranked him. There is not a serious Constitutional question that has not received his solution, in a greater or less degree. He has illuminated the Instrument upon which is based our principles of Government, with a clearness born of a powerful judgment; an ability to dissect and interpret, almost incomparable. He displayed a wonderful self-possession and inflexibility of nerve in the trial of a cause, where his opponent had suddenly intruded an unlooked for crisis. This is where weak advocates, lawyers who are feeble in emergencies, lose themselves and their case. Mr. Johnson was never disturbed under such circumstances; rather his greater power was unusually brought into action.

One of the prominent characteristics of the great advocate was his belief and corresponding action regard-

ing that ancient oath, at one time in the remote past administered indifferently, to every lawyer in England, "to present nothing false, but to make war for their clients." Mr. Johnson acted upon the apothegm to the letter. When the destiny of a client was depending upon a hair of evidence, and everybody in the court room firmly believed in his guilt, then it was that Mr. Johnson as firmly insisted on his client's innocence, almost invariably proving it.

The Reports of the Circuit and Appellate Courts of Maryland, will show that Mr. Johnson was retained on one side or the other of all the leading cases before those tribunals. For half a century in that State his energies were devoted to the success of his practice. Of the important suits in which he was of counsel, very rarely were any decided against him.

His conduct at the Bar was of that scrupulously courteous character which is sometimes painful to an observer. Notwithstanding, he was somewhat overbearing to opposing counsel. Occasionally he met his match in repartee, however. Once when the celebrated Henry Winter Davis, one of the learned advocates of his own State, had been twitted by Mr. Johnson with feebleness of memory for taking copious notes of impending proceedings, Mr. Davis replied: "Yes, Mr. Johnson, but you will please remember that, unlike the lion in the play, I have something more to do than roar." This will be appreciated when it is related that the hit was aimed at the great advocate's glorious voice, with which he sometimes blew down the jury as a tornado prostrates the forest. Before a jury he was almost irresistible. His arguments were replete with anecdote, fertile in the coolest logic, or when the occasion required, saturated with the most bitter sarcasm, or brimful of the broadest humor.

He was endowed with an astonishing memory. At

one time in reply to Judge Benjamin R. Curtis, in the United States Court for the District of Maryland, where a fortune was involved, this wonderful faculty of memory was severely tested. The great adversary of the learned Judge Curtis, cited without hesitation, volume after volume, page after page, giving number and text from memory alone. In all, they comprised over twenty cases. Some of these to which he had referred, Mr. Johnson afterward stated, he had not recalled for nearly a quarter of a century.

Mr. Johnson was an octogenarian when he died, yet retained the full possession of his faculties to the end, capable of tests almost as heavy as in the years of his manhood's prime. He was almost blind, to be sure, but not a shadow had fallen across the window of his mind. To his great memory must be attributed the possibility of what he accomplished long after a period of years which to the average man, is, as Shakespeare has so potently expressed it, but the piping treble of a second childhood.

Mr. Johnson was possessed of a grand voice, one of the essentials to successful oratory. He could be heard by those most remote from his presence in the largest assemblies. Other faculties contributing to his celebrity in the forum, were acute judgment, irresistible and powerful logic, absolute force and clearness of statement. As a *nisi prius* lawyer none excelled, few equaled him. Possessing these forces in such an effective degree, Mr. Johnson goes down the highway of legal history by the side of the greatest lawyers and advocates the United States or any other civilized country has produced.

For more than twenty years after his resignation as Attorney General of the United States, he devoted himself to his profession. During that long period, he appeared in the trial of the most celebrated cases in the country, from Maine to California.

In 1854, he sailed for England, where he had been retained by some British claimants to argue their cause in London before an International Commission. He remained in England for many months, constantly receiving the most flattering attention from the distinguished lawyers and judges of the Kingdom.

In 1861, at the inauguration of the Civil War he was a member of the famous Convention which met in Washington, to prevent, if possible the outbreak of hostilities. The following year he was again elected to the United States Senate from Maryland. During the Nation's struggle he earnestly espoused the Union cause, supporting all the principal measures of President Lincoln's administration. When peace again came to the disturbed country, Mr. Johnson was a strong advocate of the immediate admission of the rebellious States to the political status they possessed before the war. On the passage of the first Reconstruction bill, he voted in the affirmative, supporting it again when vetoed by President Andrew Johnson; the second measure of like character he opposed.

In the Senate, as well as elsewhere, Mr. Johnson was always bold in his utterances regarding public affairs. Originally a Whig, he was driven into the ranks of Democracy together with many other distinguished men of Maryland in 1856. The reason assigned for his action in the premises was the decided opposition he evinced to the interdictions prescribed by the so-called *Know Nothing* party. In the subsequent political campaign Mr. Johnson and those who had likewise withdrawn from the Whigs, supported Mr. Buchanan for the Presidency. In 1860, however, he affiliated with the Douglas wing of the Democratic party, doing what he could to promote the interest of his candidacy.

He was a strong example of independence of party dictation, it was one of his most prominent political

characteristics. One of the remarkable instances of the independent action of the great advocate was his support of the war measures of President Polk's administration. The Whigs, it will be remembered were bitterly opposed to the conflict with Mexico. Notwithstanding all this, from his place in the Senate despite the protestations of the party which had elected him, he exercised his own judgment and supported the measures with his usual energy, boldness and enthusiasm.

Mr. Johnson defended the alleged conspirators of Mr. Lincoln's assassination, his argument protesting against the jurisdiction of the Military Commission to try them, and in favor of their rights under the Constitution to a trial by a jury, was a masterly legal presentation of the law, and the greatest effort of his life.

During President Andrew Johnson's term he was employed by the General Government to act as Umpire in the adjustment of certain complications that had grown out of the Civil War in New Orleans, and history confirms the correctness of his action.

In June, 1868, he was appointed by President Johnson as Minister to the Court of Saint James to succeed Charles Francis Adams. In this capacity he negotiated the "Johnson-Clarendon Treaty" in relation to the adjudication of the Alabama Claims, but the Treaty was rejected by the United States Senate. In the negotiations with Lord Clarendon, everything that our Government asked was obtained, and the failure on the part of the Senate to ratify his actions is attributed to the extreme party jealousy existing at that disturbed period in the history of the country, caused by the hatred of the President. When a Treaty was afterward ratified, it contained not a single provision more than was embraced in Mr. Johnson's protocol. He was recalled from England by President Grant in 1869, as the nomination of a Republican to succeed him was a party necessity.

Previous to the time of opening negotiation with England, the British Ministry was changed. Gladstone had succeeded the famed Disraeli as Premier, and Lord Clarendon had succeeded Lord Stanley as Minister of Foreign Affairs. Mr. Johnson soon agreed upon a Treaty with Lord Clarendon. Mr. Seward was in constant cable communication with the American Legation, and had approved every stage of the proceedings, but the provisions of the Treaty were very unsatisfactory to the Senate. In his "Twenty Years of Congress" Mr. Blaine contends that the Treaty was properly rejected. The question being generally understood as it is, however, as stated above, it is undoubtedly true that the spirit of the times had something to do with its rejection. Had the Preamble contained language which would seem to have rebuked the English Government, and the Treaty embraced such language, conjoined with the provisions it contained, the Senate would hardly have rejected it, notwithstanding the intense bitterness against President Johnson and his Ministers.

Mr. Blaine quotes from the speech of Charles Sumner in proclaiming the reasons for its rejection, as follows. We have italicized portions of the extract :

"If the case against England is *strong*, and if our claims are unprecedented in *magnitude*, it is only because the conduct of that *power* at a trying period was most *unfriendly*, and the injurious consequences of this conduct were on a scale corresponding to the theater of action. Life and property were both swallowed up, leaving behind a deep-seated sense of enormous wrong, as yet unatoned and *even unacknowledged*, which is one of the chief factors in the problem now presented to the statesmen of both countries. \* \* \* *The truth must be told, not in anger, but in sadness.* England has done to the United States an injury most difficult to measure. Considering when it was *done* and in what *complicity*, it is

most unaccountable. At a great epoch of history, not less momentous than that of the French Revolution or that of the Reformation, when civilization was fighting a last battle with slavery, England gave her influence, her material resources, to the wicked cause, and flung a sword into the scale with slavery."

Upon his return to the United States although seventy-three years old, he resumed the practice of his profession with all the earnestness and fire of his youth.

His popularity in England was very great. When first there to make an argument for claimants, as previously referred to, his reception was all for which any private citizen of the Republic might hope. In the fourteen years that had since elapsed, he had not been forgotten. He had left a reputation behind him which time could not efface, nor the remembrance of his brilliant talents fade away. Among the numerous honors showered upon him abroad was his election as Vice-President of the International Association for the Revision and Codifications of the Law of Nations.

This great man died under somewhat distressing circumstances in the town of his nativity, and, as stated, only a stone's throw from the spot where he was born. The Governor of the State, on the 11th of February, 1876, had invited a number of friends to meet the distinguished lawyer at the mansion, and shortly after dinner was concluded, Mr. Johnson was found dead by a servant, in the grounds of the Executive mansion.

Mr. Johnson was an impressive looking man. His form compact, and stoutly built, shoulders broad, a round head and face. Beauty in the ordinary sense, he lacked but his face was lighted with unmistakable intelligence, and an impress of charity, love and manhood shining through his features with a glorious splendor.





*John L. Kenna*

## JOHN EDWARD KENNA.

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JOHN E. KENNA was born in Kanawha county, Virginia, now West Virginia, on the 10th of April, 1848. His father, Edward Kenna, having lost both father and mother, came to this country from Ireland at fourteen years of age. Engaged with the mercantile firm of La Coste & Company at Natchez, Mississippi, when that town was destroyed by the tornado of 1840, Edward Kenna, who was numbered among the survivors, made his way to Cincinnati, Ohio. There he found employment in a manufacturing establishment, and was thus engaged when he formed the acquaintance of Charles Fox, of the Cincinnati Bar. Mr. Fox tendered him the use of his library and advised him to study law. The offer was accepted and the young attorney began his professional career contemporaneously with George H. Pendleton, George Hoadley, William S. Groesbeck and others who survived him, and have often borne testimony to his character and worth.

In 1847 Mr. Kenna married Margery, the only daughter of John Lewis, of Kanawha county, Virginia, a descendent of General Andrew Lewis, and soon afterward settled in that county. Here for eight years he successfully practiced his profession, and engaged actively in the politics of that period and was a prominent factor in the nomination of Henry A. Wise for Governor, in the famous Staunton Convention of 1855, when he made a speech, reviewing the political situation,

which attracted universal attention. He met an untimely death in the following year.

Edward Kenna was a self-made man. He is remembered for his kindness of heart, his indomitable will, extraordinary energy, brilliant mind and public spirit. This much is here said of him because it is known that his own struggles, single handed, for advancement and usefulness, had inspired him with the hope, often expressed, that he might live to see his only boy armed and equipped by his aid and encouragement for a successful career. Providence denied his aid; but his son, the subject of this sketch, left fatherless at eight years, with two little sisters aged respectively eight and six years, encountered adversity in youth with a courage which his father's example inspired, and braved the trials of early manhood with a never-failing reliance on the logic of labor and upright purpose. In 1858 Mrs. Kenna, with her three children, removed to Lexington, Missouri, where her brother resided, and where she remained until the breaking out of the war. She employed a governess for a time, under whose tutelage her children were instructed, but the failure of her husband's estate, which consisted chiefly of lands, to realize funds, took away this advantage and her son began active work on the farm. Mr. Kenna refers with pride to the fact that he redeemed one of the finest plantations in Missouri from its natural state with a prairie plow and four yoke of steers, the summers he was twelve and thirteen years of age, and that at fifteen he broke as much hemp and did it as well as any man in the field. It was at this period of his life that he spent a winter digging coal, with a man named Conrad, in Carroll county, Missouri.

He was full of vital energy and fond of the open air. His work was out of doors and so were his sports. His disposition was cheerful and adaptable. The transition from labor to pastime was a joy to his heart, but when

the hour for work arrived, he laid aside the instruments of pleasure with an earnest good will. Game was plentiful in Missouri at the time of which we speak, and on "bad days," and indeed whenever opportunity offered, Kenna was out with his gun. It was thus that he acquired that skill with both rifle and shotgun which has since made him known as an expert shot, and afforded him rare sport in the bird shooting of the fields and the deer hunting of the Alleghanies.

He has included in his out-of-door equipment the modern photographic apparatus, and his photographs, embracing hunting and fishing scenes, landscapes, for which West Virginia furnishes so beautiful and unlimited opportunity, and portraits of friends and companions, constitute perhaps the most distinguished amateur collection in the United States. His photograph of Senator Beck, of Kentucky, was the last one made of that distinguished Senator before his death, and is cherished for its faithful portrayal of the splendid figure it represents. Mr. Kenna has from early boyhood exhibited a marked mechanical turn, and his fishing and hunting boats, gun stocks and many like productions, are the work of his own hands. His work bench and elaborate collection of tools are as much a part of his establishment, and find as welcome a place as his guns or his library.

At sixteen years of age Mr. Kenna enlisted in the Second Missouri Confederate Cavalry and followed the fortunes of the Confederacy to the end. In an engagement between two scouting parties, the one of which he was a member being on detached service from Shelby's Brigade, he was badly wounded in the shoulder and arm; but declined to be left on account of his wounds and remained with his comrades. The precipitate retreat of General Price from Missouri in 1864, was a series of battles and skirmishes with both the main Army and its detachment from Lexington, Wellington, and Westport

to the Arkansas line. In the trials and hardships of the protracted march the young soldier carried his bruises and bandagés, never failing of a task that any other performed, and not losing a day from active service.

He was barefooted from October to the following January when a kind-hearted citizen gave him a pair of half-worn shoes. As a result of these hardships and exposures, aggravated by his extreme youth, he was attacked by serious illness and taken to the hospital at Washington, Arkansas. Here he lay for six weeks until the physicians had abandoned all hope of his recovery. Mr. Kenna speaks with grateful recollection of the German hospital steward who nursed him like a child and thinks he owes his life, under Providence, to that kind man, and to Major John B. Burton, who was struck by his tender years, and took him to his own tent for the greater care and successful treatment which produced his recovery. He was surrendered at Shreveport, Louisiana, in June, 1865, and returned in August to his native Kanawha, where his mother, his step-father, Mr. R. J. Ashby, and his sisters then resided.

Soon after his return, he procured employment with the firm of Thayer & Chappel, then making salt at the Kenton furnace, and continued in their service until February, 1866. He had now been absent from school many years and had comparatively no education. He realized at this time that his opportunity, if he had one, would soon be gone forever. In this dilemma he saved what he could from his meagre salary, and procuring an outfit therewith proceeded to Cincinnati where partial payment and an interest in undeveloped coal lands, without prospect of immediate sale, were deemed an unsatisfactory basis for the education of a youth, and his mission failed. Receiving, however, the encouragement of friends, he applied to Bishop Whelan. The good Bishop whose blessed memory still blossoms in the recollection

of the older residents of West Virginia, irrespective of creed or nationality, had been the personal friend of Mr. Kenna's father and generously opened the doors of Saint Vincent's College at Wheeling to the young man. Once admitted, the application of the youthful aspirant was assiduous, and entering the school an almost grown man physically, but with no instruction in books since his eleventh or twelfth year, he soon acquired standing in his classes, promotion from the lower to the higher grades and terminated his connection with the College, after two years and a half of study.

His vacations during his school history were not wasted. The rebuilding of the locks and dams on Coal River was then in progress and his time was occupied in cutting, hewing and hauling from the surrounding hills the square timber used in Lock number seven on that stream.

After leaving school in 1868, he studied law in Charleston, West Virginia, and on the 20th of June, 1870, was admitted to practice.

At the Bar Mr. Kenna seems to have discovered his calling. His practice, like that of most young lawyers, was not at first remunerative, but it was sufficient to give him constant employment, and he rose rapidly in the profession. In 1872 he was nominated by the Democratic party and elected Prosecuting Attorney of Kanawha county. In that capacity he rendered acceptable service, and before the end of his service, lasting for four years, he won distinction by his conduct of important cases defended by the ablest lawyers in the State. His fairness and frankness in official prosecutions, never yielding to favor on the one hand, nor resorting to persecution on the other, commanded the confidence of the community and added largely to his strength before the courts and juries of his county.

His early life had been spent among the people. He

had seen hardship and adversity. Surrounded in his home by a refinement and culture, which had come of better days, he had yet grown up in varied atmospheres which gave him by absorption a thorough knowledge of nearly all the phases of life. The gentleman and the ruffian, the honest and the dishonest, the simple and the calculating, were alike familiar subjects on the witness stand, and it is undoubtedly, in some measure, to this fact that Mr. Kenna owes his success in practice. Naturally, from his own experience, of sympathetic nature, when a poor servant girl came weeping to his office, the victim of calumny, he volunteered his services, broke down the combinations of organized perjury which threatened her destruction, and, after a three weeks' trial, achieved a result which was hailed by the good women of the community as a public benefaction. This was the only instance in the Kanawha Valley when the strain of the public mind upon the issue of a trial found relief in popular demonstration with bands of music in ratification of the verdict of a jury. The conduct of this celebrated case of Mary Clarke and the favorable result in the Haynes Will Case after the first jury had disagreed, "six to six," established and fixed the reputation of the young advocate. His field of practice became at once enlarged and the courts of Putnam, Boone, Logan, Cabel, Wayne, Fayette, Nicholas and Greenbrier as well as the Supreme Court of his State became the scenes of his forensic efforts.

In 1876 he was a Congressional candidate. The canvass for the nomination against two of the most prominent figures in the politics of the State was the most spirited and exciting ever known in the District. Mr. Hereford, the incumbent, who had served three terms, was a candidate for re-nomination. At a critical juncture in the contest Mr. Kenna was confronted by the publication of a petition signed by twenty-eight of

the leading lawyers and business men of his own county urging Mr. Hereford, in the interest of the public, to accept another nomination. This paper was prompted by sincere motives, but politically it was a mistake as the sequel showed. At the time of its appearance, however, it fell upon Mr. Kenna's friends like a pall. It seemed to overwhelm and paralyze them; but it gave occasion for the exhibition of a genius for leadership and a power over men which had not been excelled in the history of the State. The paper was carefully read by the candidate against whom it was directed and he forthwith advertised a series of meetings, the first at Charleston, where the signers of the letter lived. This meeting was largely attended and considerable curiosity was manifested as to the probable treatment of the subject of the petition. Mr. Kenna began with reference to general political topics and spoke with moderation and earnestness. Toward his conclusion he spoke favorably of the character and standing of the petitioners to Mr. Hereford. He conceded their sincerity and regretted their apprehension that the public interests would suffer in his hands. But, he remarked, it was something of an anomaly that the letter should have urged a gentleman to be a candidate who had already been three months in the field. He indicated that the effect of this course was to advertise the speaker abroad in the district as unable to command confidence or support at home, and then in one concluding sentence he disposed, amid the cheers and plaudits of the audience, of the whole subject: "I have no word of unkindness, my fellow citizens," said he, "for any of these distinguished men. But you will pardon me when I say that if I could exchange places with any one of them—if I could stand, a matured, successful, established man, in all that the terms imply, and look upon a boy left in orphanage at eight years—if I could watch the pathway of his childhood, with the ob-

structions confronting it, and witness his struggles, his hardships, his labors and his prayers—if I could see him marching on through adversity until kinder stars seemed to shine upon him; and he was about to attain, through trial and vicissitude, a position of honor to himself and of usefulness to his fellow men—before I would sign a paper whose only effect would be to break down and ruin that young man, I would be carried to one of your lonely hillsides and there laid to rest forever.”

At the primary election Mr. Kenna carried the county upon a full Democratic vote against both of his competitors, and on the 10th of August, 1876, the date of the Convention, he was nominated amid great enthusiasm, and at the election chosen by a splendid majority, entering the House of Representatives at the extra session of Congress in October, 1877, the youngest man in that distinguished body. Mr. Randall, the then Speaker in the organization of the House, gave him, in preference to many older and distinguished competitors, important assignments to committees. On December 5, he delivered his maiden speech, and on the 29th of January presented to the House from his Committee on Commerce the first bill under his charge. His management of this measure attracted general attention and resulted in its successful passage.

On a request for the autograph of Honorable Alexander H. Stephens, the venerable ex-Vice-President of the Confederacy, whose closing years were crowned by the personal attachment of all who came in contact with him, Mr. Stephens wrote in Mr. Kenna's album the following:

“Honorable John E. Kenna, of West Virginia:

Dear Sir: You request my autograph in this album. This request, of course, I most cheerfully grant, but in doing it you must allow me to prefix the autograph with a few words expressive of the gratification

afforded me from the acquaintance with you formed in this House soon after the organization of the Forty-fifth Congress.

"Your *debut* as a debater on the 5th of December last, in which you so clearly and successfully maintained the rights of your Committee in the distribution of public business, will never be forgotten by me. The very favorable impression made by that *debut* was greatly increased by your conduct of the first bill under your charge in the House. That was only two days ago. This was the bill in relation to the Woodruff Scientific Expedition Round the World. It was your first bill. It was a measure of great public importance, and the manner in which you so skillfully and successfully conducted it to its final passage, deservedly, allow me to say, won for you not only my own, but the admiration of the House. Please take these reminiscences as matters not inappropriate in complying with your request. Let them go with the autograph.

Yours truly,

ALEXANDER H. STEPHENS,

Member Congress of Georgia.

House of Representatives, January 31, 1878."

In June, 1878, he made a speech on financial and economic issues, which not only advanced him largely in the estimation of his associates, but thousands of copies were printed and circulated as a campaign document, as many as 50,000 going to one state alone.

He was a member of the sub-Committee of three which prepared and reported the bill for the reorganization of the Life Saving Service, and this bill, largely the result of his labor, placed this beautiful branch of the service of our country, in all its essential and humanitarian aspects, at the front of the Life Saving organizations of the world. He was also a member of the sub-

Committee appointed to report a general revision of the Navigation laws of the United States.

In 1878, he was re-nominated by the Democracy of his district by acclamation, but a combination between the Greenbackers and Republicans seemed for a time to threaten his defeat. He was taken from the canvass by sickness, but the attachment of the people to his plain and straightforward methods, and his manly course as their Representative, and he was triumphantly elected. He was a member of the Select Committee appointed to investigate the Cincinnati election of 1878, and in the absence of its Chairman, presided over its deliberations.

His devotion to his convictions was admirably illustrated by a circumstance which occurred in 1879. The Legislature instructed the West Virginia delegation in Congress to support the Texas Pacific Railroad Bill, then pending in the House of Representatives. Upon careful examination of this measure it had excited Mr. Kenna's unqualified condemnation. Instead of following blindly what appeared to be a popular current, he wrote to Doctor Summers, then in the State Senate, in answer to an inquiry from that gentleman, a letter which spoke respectfully of the Legislature, but described in caustic terms the nature of the Bill, laid bare its vicious elements, and exhibited a determination to stand by his convictions in the matter. This letter was printed by prominent journals throughout the country, and in at least two states was read before Legislatures having the subject under consideration. Mr. Kenna's letter concluded as follows:

"To support this measure on my part would be to violate the solemn pledges which I have made an hundred times over to the people of my district. I have not denounced subsidies to come here and support them. I have not raised my voice in opposition to class legislation against the interests and rights of the masses, to

come here and lend my voice to the consummation of that very work. I have not joined in the indignation of my people at the stupendous power and corruption of the American lobby to come here and surrender myself helplessly into its hands.

\* \* \* \* \*

“For my own part, I shall carry out faithfully every pledge I have made to our people. I shall protect and defend their rights and interests, in every manner, and with every faculty, however humble, with which it has pleased God to endow me. With that view and in discharge of that obligation, I cannot and will not support this Bill nor any other measure involving its principles, its policy, or its practice.”

The Legislature reversed its action, thus vindicating the determined Representative.

Mr. Kenna was re-nominated by acclamation for election to the Forty-seventh Congress, and this time, in the full possession of health and vigor, he took the stump and increased his majority nearly 2,000 over the same opposition that had confronted him two years before. His service in the next Congress is a simple chapter of activities. His conduct, associated with Randall, Carlisle and Blackburn, of Kentucky, in the famous contested election cases of that session, brought him to the front as a parliamentarian and commanded for him full confidence in that capacity. It was in this Congress that the memorable conflict occurred between himself and Mr. Keifer, the Speaker of the House. The Speaker had reprimanded Mr. Money, of Mississippi. “Could it be,” Mr. Kenna asked, “that the Speaker essayed to reprimand a Representative of the people in the absence of action by the House?” The response in the affirmative was so vehement as to provoke the applause of those who shared the Speaker’s convictions on the subject. Mr. Kenna thereupon offered a resolution reciting what

had transpired and providing for the prompt and heroic treatment of the subject. The resolution was received with profound silence, which became, if possible, more intense as the statement proceeded which supported it. But the Speaker receded from his asserted authority, and the resolution was withdrawn amidst the applause of the House, whose dignity and character it had maintained.

Again nominated by acclamation, he was in 1882 re-elected to the House of Representatives, but in January, 1883, was elected to the United States Senate and resigned his commission to the House for a fourth term, to accept a seat in the Senate, to which he was elected for a second term in January, 1889. It thus appears that, at the age of forty-one, Mr. Kenna had been elected to serve in Congress for a period that embraces twenty years. He was for twelve years the youngest member filling a full term in one House or the other, and is still the youngest, except one, in the United States Senate. His service in the Senate has been marked by the same qualities which characterized his conduct in the House. Naturally drifting into channels for which his legal training adapted him, his first effort in the Senate was directed to the Interstate Commerce Bill, then pending. His speech was devoted to the definition of the powers of Congress as distinguished from those of the State over this important subject, and strongly supported the measure.

From his speech delivered to an attentive Senate on this occasion the following passages may be accepted as illustrative of his powers of condensation and the general character and style of his arguments. Speaking generally, of the railroad organizations of the country, and their relation to Interstate Commerce, Mr. Kenna said :

“What are these corporations? We all know the reasons, the human instinct, common perhaps to us all,

that led men in England to find in the doctrine of uses, a device whereby to escape laws enacted for their restraint. We know the craving of the human mind and for power. We know something of the cupidity of man. We know what the doctrines of primogeniture and estates tail meant. We know they were abolished for reasons familiar to the whole country, in accordance with the spirit of our institutions, in every State in this Union. But we have lived to see the day in which another form of perpetuity has come to life—corporations which never die, corporations which live forever, and which do not fail. I do not discuss or reflect upon motive, to find advocates upon this floor, as upon the floor of every legislative body in this great country, ready to advocate any theory they put forward for the maintenance of their prerogatives, even in defiance of the interests of the public and of the powers of the State!

“They never die. It is true that sometimes they ‘shuffle off this mortal coil,’ a receivership is established, a temporary proceeding resorted to, but it is only the process by which they put on immortality. 125,000 miles, some Senator stated to-day, to be the length of the railroad tracks in this country. 125,000 miles was the statement of the mileage of railroads in this country some months ago. I saw last night the most recently tabulated statement by companies and ownership, which I have met with anywhere, and it places the railroad mileage of the United States at something over 143,000 miles! It would reach nearly six times around this earth and the capital invested in it, according to the statement of railroad authorities, before your Committee investigating these subjects recently, amounts to \$6,250,000,000—money enough, if in unsevered National Currency notes, to enable some mystic giant power to take this world of ours in one hand and to wrap it and

bind it thirty times around in greenbacks, with the other !

“ Last year, according to the statement of Mr. Fink, who is said to be better informed on the subject than any other living man, these railroads collected in tariffs from the people of the United States \$700,000,000. I need not deal in exact figures. Turn to the gross receipts of your Treasury from all sources, direct taxes, internal revenue, imports, sales of public lands, patent office fees, fines and penalties ; take them all, and at least thirty per cent more was collected from the American people by railroad corporations in one year, the last year, than the total amount from every quarter collected by the United States Government. And this has happened under a system which has grown up without an enactment of Congress to regulate or control it.

“ And yet a transportation system has grown to proportions which dwarf every acknowledged measure of human enterprise ; which involves over \$6,000,000,000 of invested capital ; which carries over \$12,000,000,000 of annual commercial values, and which drew from the people last year \$700,000,000 in freights and tariffs, and this without the let or the hindrance of a Federal law to control this stupendous power, or to give it directions for the public good.”

On the issue between President Cleveland and the Senate, with regard to appointments to office, and removals from it, a great Constitutional question was involved. The Senate had demanded of the Executive the papers on which his removals and nominations were based. Mr. Cleveland, asserting the independence of the Executive Department, had repudiated this demand. The Senate had stoutly maintained its position refusing to consider confirmations, and the nominations of the President, numbering over a thousand, were suspended in mid-air. The issue became absorbing. It filled the

current press and occupied the public mind. The debate in the Senate was protracted and its ability was marked.

Mr. Kenna's speech, on this occasion, was exhaustive and the audience which confronted him, embracing substantially both Houses of Congress, as well as the visitors who crowded the galleries, was one of the most distinguished that ever assembled in the great Chamber. The history of the subject was reviewed from Washington, through successive administrations to Cleveland. The review was elaborate, coherent, caustic. The utterances of Washington, Madison, Jackson, Webster, and of John Sherman, while Secretary of the Treasury, were invoked with commanding power, and the incidents of Johnson's administration, with the contemporaneous records of Blaine, Sherman, Edmunds, Logan and others, were exhibited with an effect which aroused and swayed the vast audience. The Constitutional feature was argued and presented with precision, clearness and simplicity, and withal the speech was strongest for its dignity and fairness. It is the ablest of the productions of its author and upon it his friends would be quite willing that his standard should be measured. For three hours and twenty minutes Mr. Kenna held the undivided attention of the remarkable gathering which surrounded him, and concluded amidst the most cordial demonstrations of applause. Thenceforward, to the close of the Cleveland administration, he was recognized among its strongest bulwarks and best defenders.

His reply to Senator Sherman's assault on the President's financial policy at the ensuing session, contributed largely to his re-election to the Senate and added to his strength among the people of his State, whose confidence he already had so long enjoyed. In 1886 he was chairman of the Democratic Congressional Campaign

Committee and was for several years the standing Secretary of the Democratic Senatorial caucus, of which Senator Beck, of Kentucky, was Chairman.

Throughout his Congressional career he has had a law partner at home, and, as far as his public duties would permit, has maintained through his relation to conspicuous cases his connections at the Bar. His chancery practice has involved railroad and other corporate litigation, and his field of professional service has been extended by the development of a growing and prosperous State. Among his more recent cases the foreclosure of the Ohio Central, and of the Kanawha and Ohio Railroads, the Central Trust Company against the Randolph West Virginia Boone Company, and *Clark v. Reeder*, involving 50,000 acres of West Virginia coal and timber land, may be mentioned as the most important. In all these Mr. Kenna, with his associate counsel, has been successful, and indeed at the age of forty-two years, still in the full possession of a vigorous young manhood, he yet looks back upon a career of twenty years of honorable and most successful professional life.

Educated in the school of common law, he has never lapsed into the habits of a "case lawyer," but has pursued his profession as a science and is devoted to it. Success, however, has not made him forget the sources through which it came. Neither has it warped his kindly, generous nature, or changed the courtesy of his genial manners. Mr. Kenna, after fourteen years of service in the councils of his country, is as accessible and as approachable now, and by the humblest of his fellows, as he was when he plowed the western prairies. Perhaps the secret of the devotion of a constituency which sticks to him and swears by him, is to be found, not alone in the discharge of his public duties, but in his loyalty to every interest entrusted to his keeping, and in the unaffected nature which is incapable of ingratitude or treachery.





*James Kent*

## JAMES KENT.

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NEW YORK has the honor of giving to the country one of the most eminent jurists of the early generations of our Nationality. James Kent, LL. D., was descended from an ancestry noted for its legal ability, his father having been a distinguished lawyer and Surrogate of Rensselaer county in the Empire State. Judge Kent was born in Fredericks, New York, on the 31st of July, 1763, and died in the City of New York, on the 12th of December, 1847.

He was a remarkably studious boy, and until he became a famous judge, when his official duties demanded a large portion of his hours, he continued the same studious habits that had characterized his youth. He was graduated by Yale College when only eighteen years of age, an evidence of his remarkable talents. Having read Blackstone for mere amusement two years previous to the close of his college course, when he left his *alma mater* he decided upon the law as a profession. While at Yale he assisted in founding the Society of *Phi Beta Kappa*.

He read law in the office of Egbert Benson, was admitted to the Bar in 1785 as an attorney, and two years later as a counselor. He at once settled at Poughkeepsie in his native State where he commenced the practice. Now began that severe mental discipline of study coincident with his business life, which he continued for thirteen consecutive years, at the end of which period he was elevated to the Bench.

His plan for prosecuting the studies he had determined upon at the time his education was finished, so far as other teachers than books were concerned, is worthy the emulation of all legal students. His methods provided for two hours to Latin, and the same time to Greek before he partook of his breakfast, consequently he must have been an early riser. When the duties of his office were concluded for the day, and supper disposed of, he read French for two hours, devoting the remainder of the evening to standard English authors. This latter disposition of the day was sometimes materially deranged by the demands society made upon him; the visits of friends, their return on his part, and other little conventionalities which could not be neglected without manifest discourtesy by a young gentleman of his social position. In the morning hours he brooked no interference, they were rigidly devoted to the occupations assigned to them.

Five years after the date of his settlement in Poughkeepsie, in 1790, Judge Kent was elected to the Legislature. Upon the expiration of his term of two years, he was re-elected, serving a second term with honor to the State and great personal distinction. He was then nominated for the Lower House of Congress on the Federal ticket, but was defeated. This was in the year 1793; his reputation as a lawyer and a man of ripe classical scholarship was already established. When the canvass for Congress had ended, and he had suffered defeat, he removed to New York City, was appointed Professor of Law in Columbia College, which he held for five years, resigning it only to accept judicial honors.

He became a warm friend of Alexander Hamilton, with whom he had been closely associated during the struggle in his native State over the adoption of the Federal Constitution. By that eminent statesman his attention was directed to the authoritative writings on the subject of civil law in Europe, the careful study of

which he immediately began. He was particularly interested in the works of the great French jurists Pothier and Emerigon, prepared a course of lectures in November, 1794, the introductory to which was published under the auspices of Columbia College.

In 1796, two years before he severed his connection with the College, he was appointed by Governor Jay, whose friendship he had secured while a member of the Legislature from the Poughkeepsie District, a Master in Chancery, of which there were but two in the State. In the fall he was again elected to the Legislature, this time representing the City of New York.

The same year he was called upon to deliver the annual address before the State Society for the Promotion of Agricultural, Arts and Manufactures. In his efforts on this occasion he displayed his versatile talents in the domain of the subjects under consideration by eloquent, expressive language, and a most comprehensive knowledge of the material needs and probable resources of the whole country.

In 1797, Judge Kent was appointed Recorder of the City of New York. He held the responsible position one year only, having been appointed by Governor Jay in 1798 to the office of an Associate Justice of the Supreme Court of the State. Upon his acceptance of this Judgeship he returned to his former home, Poughkeepsie, though almost immediately removed to Albany, the capital, where he continued to reside while he remained upon the Bench, a period of twenty-five years.

By a remarkably ridiculous provision of the Constitution of the State of New York, Judge Kent was compelled to retire from a position which he had so graced by his brilliant talents, because of his age, beyond which period that Instrument declared a man was ineligible to serve.

To this palpably absurd provision in its application

to the case of Judge Kent, Allibone thus humorously refers: "Having at this date attained his sixtieth year, though in the very prime of intellectual, and in his case physical life, he was obliged, by the most absurd provision of the Constitution of his State, to relinquish his office, and yield to some successor who, if he had the disadvantage of less wisdom and learning, had the redeeming merits of fewer years. We all remember Mr. Pitt's or rather Dr. Johnson's admission of the 'atrocious crime of being a young man.' Chancellor Kent was obliged to plead guilty to the imputed criminality of having attained middle age? But finding Nature stronger than Legislative enactments, and his euthanasia not hastened by the edict of Senators, he added to his turpitude by living twenty-four years of mental and physical vigor, professional activity, and composing four volumes of immortal Commentaries. About twenty years after the burial service of the New York Statute-Book had been read over the late Chancellor, he writes to Daniel Webster: 'I am indeed in my eightieth year, but, thank God, I am wonderfully well and active, and my ardor for reading, and my susceptibilities are, I think, as alive as ever to the charms of Nature, of literature and society. \* \* \* My reading is regular and constant; all the reports of law decisions as fast as I can procure them, all the periodicals, foreign and domestic, and old literature and new books, are steadily turning over.'"

This ridiculous statute, which deprived the great State of New York of such a great Judge as James Kent, was afterward wisely repealed.

In the year, 1804, Judge Kent became the Chief Justice of the Supreme Court of the State of New York, in which position he served for ten years. On the 25th of February, 1814, he was appointed Chancellor of the

State, remaining in that position until his retirement as previously mentioned.

Mr. Huntington in his memoir of Judge Kent, says of the condition of the Court of Chancery at the time he was appointed to preside over it: "The Court of Chancery previous to his accession had been shunned by lawyers and litigants on account of its dilatory proceedings and expensive forms of practice. Chancellor Kent enlarged and improved the Court, and by expounding and applying the doctrines of Chancery, which before had not been adequately administered, laid the foundations of Equity Jurisprudence in the United States.

"Chancellor Kent's decisions while he held that position, will be found in the seven volumes of Chancery Reports, New York, 1814-23. The opinion of these decisions by eminent lawyers do not differ in the slightest degree, except in the form of the language employed in their eulogy."

Among the eulogies pronounced upon this great man's official ability we quote the following from Judge Story: "In his decisions we can everywhere trace the happy use of that marvelous system of doctrines which Justinian collected with so much care, and which stands unrivaled in the world for its general equity and nice adaptation to the necessities of mankind. \* \* Let those who now doubt the importance of the study of the civil law by common law lawyers read diligently the opinions of Mr. Chancellor Kent, and they will find all the objections raised by indolence, and ignorance, and prejudice, practically refuted, and the civil law triumphantly sustained. They will perceive the vivid light which it casts on the paths of judicial science, and they will be instructed and cheered in the pursuit, though they may not hope to move in the brilliant career of such a judge with equal footsteps. \* \* \* As to the Chancery decisions of Mr. Chancellor Kent, they are as full of learn-

ing, and painstaking research, and vivid discrimination, as those of any man that ever sat on the English wool-sack."

Judge Story further adds: "It is therefore not extravagant to say that, although when he was appointed to the office of Chancellor, a Court of Chancery existed, yet a Court of Equity, in the true sense and full significance of the term, was still to be created, and it was his peculiar glory that by his genius, his energy and his labors during the nine years that he acted as Chancellor, this necessary Court, in all the amplitude of its just dimensions was created."

Judge Duer testifies as follows: "It required such a man, with such a mind, at once liberal, comprehensive exact and methodical, always reverencing authorities and bound by decisions, true to the spirit yet more to the letter, of the law, pursuing principles with a severe and scrupulous logic, yet blending with them the most persuasive equity, it required such a man with such a mind, to unfold the doctrines of chancery in our country, and to settle them upon immovable foundations."

While Judge Kent was on the Bench, by the provisions of the Constitution, which was finally abolished at the request of the Judges of the Supreme Court themselves, the higher judiciary of the State, had, with the Governor a revisory power over the acts of the Legislature, aside from their judicial functions; it was a sort of a veto power, and when exercised, Judge Kent was as careful and conservative in his semi-political duty as in his judicial acts.

In the forming of the new State Constitution, in 1822, at which time the forgoing veto qualification attached to the higher judiciary of the State was eliminated, Judge Kent participated actively in the discussion of the Convention, and by his wisdom and legal ability, prevented the abolition of the Court of Chancery which he had made

so great and efficient, which was one of the propositions submitted to the Convention.

William Wirt, when Attorney General of the United States, during President Monroe's administration, strongly urged Judge Kent for the position of Associate Justice of the Supreme Court, at which time there occurred a vacancy, but Mr. Monroe had decided upon another appointment before Chancellor Kent had been mentioned.

After his compulsory retirement from the Bench by the provisions of the Constitution, Judge Kent resumed his residence in New York City, and also his Professorship of Law in Columbia College. It was at this time that he conceived and commenced his immortal Commentaries on American Law; the first legal classic of the United States. The original subject of his lectures before the College classes for the period of two years, form the nucleus of his Commentaries. He remained, actively with the College for about two years, when he retired, devoting his time to the revision and elaboration of his great work; to certain lines of consulting practice, and deciding controversies which were submitted to him for the determination of the legal points involved. He also found time to accept invitations to address the New York Historical Society of which he was President, and the *Phi Beta Kappa*, of Yale.

His Commentaries passed through several revisions, the last one made by himself, the sixth, a short period before his death, in 1847. The great work comprises four volumes, and "embraces the Jurisprudence of the Federal Union, the Common and Statutory Laws of the individual States, and the leading Principles of International Law."

Of the character of the Commentaries, every student of law must for himself decide upon the purity of style, the logic and exactness of expression as they seem to

him, as every one is his own critic. Yet nowhere can be found any adverse criticism of the great work. All the eminent lawyers, since their appearance, are a unit in their praise on all the subjects above referred to. In much, it is conceded that Judge Kent is superior to his predecessor, the learned Blackstone, because of the latter's impossibility to incorporate in his work great questions that have arisen from the advanced condition of the world's civilization, that were never dreamed of as among the possibilities by the great English jurist.

The Commentaries are not confined in their scope to the lawyer or law student. They should have a place in the library of every lover of history, as a reference in the investigations which come within the purview of all literary men. The greatest historians of our country, writing since the establishment of the Republic, frequently refer the reader to the Commentaries for a further discussion of certain questions belonging to the domain of absolute history. So great was the demand for the Commentaries upon American Law, that for the period up to 1853, they had netted the distinguished author and his heirs, more than \$120,000.

The following opinions of great English jurists on the value of the Commentaries, are presented without regard to order or reference :

"They may be recommended to the English law student of the present day as a substitute for Blackstone. They contain not only a clear statement of the English law, with all the alterations that have taken place since the time of Blackstone, but a full account of the main principles of equity, [a topic on which the English commentator is confessedly deficient] also a review of the modifications engrafted on the English law by the different states of the Union, and on all important questions, an instructive parallel between the English, American, Modern, Continental and Civil Laws."

"We have never met in any English work, with a more full and satisfactory account of the rights and liabilities of infants, than is contained in the work before us. Before quitting this book we wish to say a few words as to its style, and of this, we can scarcely speak in terms of sufficiently warm commendation."

"We have learned the respect that is due to Professor Kent, the late Chancellor of the State of New York, author of the Commentaries on American Law, a name not inferior, as a legal writer, to any of the present day."

The *Edinburgh Review* said: "It will be a proud distinction to Kent and Story that they have done more than any other men to put an end to the indifference of English lawyers to the learning of their American brethren."

Judge Story, in a letter to Judge Kent, says: "The work is a new proof of your accurate learning, extensive research, and unwearied, diligence. It does honor to your talents and public spirit, and I am persuaded that it will give a permanent increase to your reputation. It will become an American text-book, and range on the same shelf with the classical work of Blackstone in all our libraries. If one were tempted to envy you anything, it would be this proud distinction."

Nearly a decade after the date of the foregoing letter, Judge Story again, in writing to his distinguished friend, says: "Since I last wrote you, I have found time to examine various parts of your Commentaries, in the last edition with more care than I had previously done. You have everywhere improved the text by your additions, and infused into it the new and fresh resources of your daily-augmenting learning. I rejoice to find also that in America the various merits of this admirable work are now universally and familiarly established. Abroad it is also acquiring a solid and im-

posing character ; and I find, from incidental notices of it here and there, in legal publications in England, that it receives a just and liberal praise. This is as it should be. \* \* \*

Mr. Huntington, in his memoir, refers to the Commentaries thus : “ As lucid, terse, and pure in style as the ‘ Commentaries ’ of Blackstone, and resembles them in logical exactness of expression and cogency of reasoning ; yet in breadth of scholarship and copiousness of learning, the American jurist was superior to his English predecessor, drawing illustrations, parallels and arguments from the Roman law and the jurisprudence of Continental nations, and discussing subjects which Blackstone was unable from lack of knowledge to include in his work, such as Commercial and Maritime Law, the Law of Nations, and Equity Jurisprudence.”

In Marvin’s Treatise we find : “ England has only one Blackstone, and the American rival equals him in classic purity and elegance of style, and surpasses him in extent and copiousness of learning. What do Sir William Blackstone’s Commentaries contain of Equity Jurisprudence, of the Laws of Nations, and the several titles of Commercial Law, which are discussed with such richness and accuracy by Chancellor Kent ? Scarcely nothing ; and a comparison of other titles in the two works show the American author to have surpassed his rival in comprehensiveness of research and fullness of illustration, and to have equaled him in clearness and cogency of reasoning.”

This great jurist after a long life of usefulness to himself and value to his country, died in the fullness of years, without the impairment of a single faculty to the day of his death—aged eighty-four years.





*Abraham Lincoln.*

## ABRAHAM LINCOLN.

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ABRAHAM LINCOLN, one of the most prominent characters in the history of American civilization, sprung from the depths of obscurity and the most abject poverty. His father, Thomas Lincoln, was an idle, shiftless being; a roamer, "satisfied with indifferent shelter, and a diet of corn bread and milk." Upon his marriage to Nancy Hanks, he took her to live in a shed in one of the alleys of Elizabethtown, in Hardin county, Kentucky. It was still standing in 1866, "to witness for itself the wretched poverty of its inmates."

Soon wearying of the town, and true to his nomadic nature, Thomas Lincoln took up some land about thirteen miles distant, on Nolin creek, with the intention of becoming a farmer, where in a miserable cabin surrounded by a landscape of utter desolation, on the 12th of February, 1809, the illustrious Abraham Lincoln was born. Here he remained until he reached the age of four years, when his father, possessed of the spirit of roaming again, moved to another spot some six miles distant, where the land was fertile. The legend says that here the elder Lincoln "bestirred himself most vigorously, and actually got into cultivation the whole of six acres." There he remained for some time, young Abraham approaching his ninth year before it was time for the family to start on another tramp. While living on Nolin's fork, the future great President hunted ground-hogs, fished and indulged in all those other sports familiar to primitive civilization; was once nearly

drowned, saved only by the extraordinary efforts of his companions.

In the fall of 1816, Thomas Lincoln built a boat, on which he floated down the Ohio river to a place called "Thompson's Landing." There he sold his rude craft, wandered off into the wilderness of Indiana again to seek an abiding place. He did not have to travel very far, about sixteen miles only from the river, before he found a spot he thought would suit him; an easy matter, for he was not particularly fastidious in his choice of a location. After making a selection, he trudged on foot all the way back to Kentucky for his wife and family, loaded all his household effects, evidently not very extensive, on two horses, and packed through to Thompson's Landing. Besides their limited amount of bedding, the entire outfit consisted of one oven and lid, one skillet and lid, and some tinware. Arriving in due time at the landing, he hired a team and loaded it with what he had left at the time he came there with his boat, and the things he had packed on the horses, he moved out on the land he had selected, which is now known, and is famous as, "The Lincoln Farm."

Starting in with a full quarter section, he relinquished half to the Government, contenting himself with eighty acres. The region abounded in deep forests, and as game was plenty, he could supply his larder without giving much attention to the cultivation of the soil, an occupation to which he was evidently much opposed.

His cabin is described as follows: "It had no window, door or floor. There was no furniture worthy the name, even by the most rigid construction. Three-legged stools, constructed in the crudest manner, served the purpose of chairs. The bedstead was made of poles stuck in the cracks of the logs in one corner of the cabin, while the other end rested in the crotch of a forked stick sunk in the earthen floor. On these were laid some

boards, a 'shake-down' of leaves covered with skins and old petticoats. The table was a hewed puncheon, supported by four legs. They had a few pewter dishes to eat from, but the most minute inventory of their effects makes no mention of knives or forks. Their cooking utensils were a Dutch oven and a skillet."

Young Abraham's sleeping apartment was up in the loft, to which he had access by mounting wooden pins driven into the logs forming the side of the miserable structure. What he reclined his long and angular form upon in the shape of a bed, history is silent about, though probably on a mass of the leaves of the surrounding forest with the untanned skin of some wild animal for his covering.

In the summer of 1818, the settlement was visited by a scourge of sickness, and among the number who succumbed was the mother of Abraham Lincoln. The husband sawed out lumber to make her coffin, and she was laid to rest with some others in a little opening where the great trees were partially cleared away. In the rough bark of one that stood near her silent resting place, her name was cut, the only mark to tell where the mother of one of the greatest Presidents reposed.

A little more than a year had elapsed since the death of his wife, before Thomas Lincoln started alone again to Kentucky in search of another, an original flame of his who was now herself a widow, Mrs. Johnson, and who, after some persuasion, consented to marry him. Although in Kentucky she was regarded as a poor widow, she had an amount of household goods that was almost paralyzing to the vision of Tom Lincoln, in their magnificence. A certain bureau, among other things, attracted his attention, and he told her that when they arrived at their home in Indiana, it ought to be sold, as he considered it "a little less than sinful to be the owner of such a thing," but she positively refused to be convinced, and retained it. The story relates that of the "large

supply of household goods belonging to her, there was one fine bureau, one table, one set of chairs, one large clothes chest, cooking utensils, knives, forks, and considerable bedding." All these necessities were a God-send to the miserable cabin and its occupants, young Abraham, Dennis and their sister Sarah, when they arrived in a four-horse wagon at the settlement. Their surprise was no greater than was Mrs. Lincoln's at the poverty and meanness of the place, so diametrically opposite to that represented to her by her husband when he asked her hand in her relatively comfortable home in Kentucky. "She had been led to believe that he had reformed his shiftless ways, and was now an industrious and prosperous farmer." So indignant was she, at the way she had been deceived, that "she was hardly able to restrain the expression of her astonishment and discontent. Though sadly overreached in a bad bargain, her lofty pride and her high sense of Christian duty saved her from hopeless and useless repinings. On the contrary, she set about mending what was amiss with all her strength and energy. Her own goods furnished the cabin with tolerable decency, while she made Lincoln put down a floor and hang windows and doors." She must have been a noble woman, for at once she took the half-starved, half-naked children of her shiftless husband into her affections. She clothed them from the stores she had laid up for her own, as she had brought three of them to her new home. "His were dirty, and she washed them; they had been ill-used, and she treated them with motherly tenderness, or as she said in her own modest language, 'made them look a little more human.'" "In fact," the story goes on to say, "in a few weeks all had changed. Where everything was wanting, now all was snug and comfortable."

She took an especial liking to young Abe, and he returned it cordially, never changing in that love for her

during all his life. "She soon dressed him up in new clothes, and from that time on he appeared to lead a new life." His innate love for study, was constantly encouraged by her; she discovered that her step-son was a boy of remarkable natural ability, and that if properly brought up there was a bright future before him, which she did all in her humble way to assure.

Years after she had crossed the "dark river" and the fame of her step-son was co-extensive with the civilized world, he always referred to her as "Saintly Mother," or "Angel Mother," who "first made him feel like a human being."

To Sally Bush, the second wife of Thomas Lincoln, the country owes no small debt of gratitude for the early training of Abraham Lincoln, without whose guidance in his tender years, he might never have reached the eternal fame which a great country, whose integrity he preserved, together with the humanity of the whole world, righteously accords him.

The poverty and misery which attended his boyhood, are here dwelt upon for the purpose of showing the possibility of every American child rising to distinction, no matter what his surroundings, the lowliness of his birth or hardships of his youthful experience, though it is doubtful, among all the cases in history, if there is one that is an absolute parallel in poverty, misery and utter absence of advantages to that of Abraham Lincoln.

"When I landed in Indiana," says his noble step-mother, "Abe was about nine years old, and the country wild and desolate." At that critical period in his life she appears upon the scene as a guardian angel, to guide the footsteps of the future great man. Clothes are put by her hand upon the half-naked boy, and he is allowed to go to school as much as possible. The rigid poverty of the family demanded his services at home, on the farm, or with the neighbors as a hired hand. Shortly after the

appearance of his step-mother at the forlorn cabin in Indiana, he began his erratic attendance at the nearest school. This was about the year 1819, when he had attained nearly the age of nine. Whether he could yet read is doubtful, though he had had a few days' tuition in Kentucky.

The school was taught by Hazel Dorsey, and was in a small structure built of unhewn logs, about a mile and a half from young Lincoln's home. Holes were cut in the logs for windows, and greased paper served the purpose of glass, while the roof was only high enough to allow one to stand erect. Reading, writing and numbers constituted the whole curriculum, and it is said by the few who were his companions at the time, that Lincoln was even the equal, if not the superior, of any scholar in his class.

His next term, if such short periods as he was able to attend school may be dignified by the word, was in the winter of 1822-3, and in the same miserable building where Hazel Dorsey taught. In the holes substituted for windows the "same greasy leaves of old copy books" did duty for glass. At that time he had reached his fifteenth year, and is thus described: "He was growing at a tremendous rate, and two years later attaining his full height of six feet and four inches. He was long, wiry and strong, while his big feet and hands, and the length of his legs and arms, were out of all proportion to his small trunk and head. His complexion was very swarthy, his skin shriveled and yellow even then. He wore low shoes, buckskin breeches, a linsey-woolsey shirt, and a cap made of the skin of an opossum or a coon. The breeches hung close to his thighs and legs, but failed by a large space to meet at the tops of his shoes. Twelve inches remained uncovered, exposing that much of a shin-bone, sharp, blue and narrow. He would always come to school thus clad, good-humoredly

and laughing; was always in good health, never was sick, and had an excellent constitution, and took good care of it."

One of his schoolmates says that, "essays and poetry were not taught in that school, but Abe took them up on his own account. He first wrote short sentences against cruelty to animals, and at last coming out with a regular composition on the subject. He was very much annoyed and pained by the conduct of the boys, who were in the habit of catching terrapins, and putting coals of fire on their backs. He would chide us, tell us it was wrong, and write against it." Thus early he developed that dread of causing pain, which saved many a deserter from his just death in the Civil War, when he was Commander-in-Chief of all the Armies.

Once more, and for the last time, Abraham Lincoln attended school; he was then seventeen years old. To reach it he was compelled to walk over four miles, and his attendance only at odd periods, which were soon given up altogether. It is estimated that all his days devoted to the primitive country schools would not aggregate a whole year, so limited were his opportunities of attendance.

This last school was exactly similar to the others in the number and character of its studies; the only difference was a slight modification in the style of its architecture; the first had one chimney, the latter two. The teacher many years ago demolished the structure in order to utilize the logs in the construction of a stable, and he presented Mr. Lincoln's law partner with a piece of one as a precious relic of the boyhood days of the great man.

It is stated on authority, that one reason why Mr. Lincoln never went to school again, was that he had outstripped all the knowledge of such teachers as formed

the corps in those primitive days, that "it was no use for him to attempt to learn anything from them."

He continued his studies at home and wherever he worked out, devoting himself to reading rather than to work, for which he had no special love. This fact is one of the most vividly recalled by those who remember his young manhood. Some declared he was "awful lazy;" others that "he was always reading and thinking." His favorite occupation was to stretch out under a tree, or up in the loft of the cabin to "read, cipher and scribble." In the long, winter evenings he sat in the corner of the rude fire-place, where he "ciphered" by the fitful light of the burning logs, on the "wooden fire-shovel." When it was fairly covered, he would shave it off with Tom Lincoln's drawing knife, and begin again. In the daytime he used boards for a slate, and "went through the shaving process everlastingly." His step-mother said: "Abe read every book he could lay his hands on, and, when he came across a passage that struck him, he would write it down on boards if he had no paper, and keep it there until he did get paper. Then he would rewrite it, look at it and repeat it. He had a copy-book, a kind of scrap-book, in which he put down all things, and thus preserved them."

Mr. Lincoln had a remarkably retentive memory; could repeat whole chapters from the books he had read; he also early developed that talent for oratory which made him later a great and effective public speaker. It is related of him that on Monday mornings he would "mount a stump and deliver, with a wonderful approach to exactness, the sermon they had heard the day before." So persistent did the young man become in his "in season" and "out of season" preaching and stump-speaking, that it disturbed his father, demoralized everybody who had anything to do, for when it was announced in the harvest-field, says one who remembers those days,

that Abe had taken the stump, there was an end of all work. The hands flocked around him and listened to his curious speeches with infinite delight. Mrs. Lincoln says: "The sight of such a thing amused us all," but she tells that Mr. Lincoln often hustled poor Abe off of his platform in no very gentle manner, and compelled him to go to work.

Tom Lincoln evidently intended that his precocious son should work at the trade which he himself understood indifferently well. To be a carpenter was not only distasteful to the future great President, but he had determined that his life should be entirely different from that of which his father's was a striking example.

The story of his hardships in his early boyhood, and the character of Thomas Lincoln, are now dropped in this sketch. A long period of indifferent success, and many failures is passed by, the details of which the reader may find in half a dozen biographies of the great commoner. We now arrive at a time in his life when he first appears upon the scene as a public speaker and to take a place in the politics of the country. It was in 1832, or 1833, when Mr. Lincoln had arrived at the age of twenty-three or four, having settled at New Salem, in Sangamon county, Illinois. His innate abilities were first discovered by Mr. James Rutledge, the founder of the town. He with many others urged him to become a candidate for the Legislature; having just returned from the Black Hawk War was a fact that added immensely to his popularity.

It was in a debating club, of which Mr. Rutledge was president, when Mr. Lincoln made a speech, which convinced Mr. Rutledge there was something more in the man than his good nature. That speech, his initial effort at public speaking, is thus related by a son of Mr. James Rutledge: "As he arose to speak, his tall form towered above the little assembly. Both hands were

thrust down deep in the pockets of his pantaloons. A perceptible smile at once lit up the faces in the audience, for all anticipated the relation of some humorous story. But he opened up the discussion in splendid style, to the infinite astonishment of his friends. As he warmed with his subject, his hands would forsake his pockets and would enforce his ideas by awkward gestures, but would soon seek their easy resting places. He pursued the question with reason and argument so pithy and forcible that all were amazed. The president of the club, at his fireside, after the close of the meeting, remarked to his wife that there was more in Abe's head than wit and fun; that he was already a fine speaker; that all he lacked was culture to enable him to reach the high destiny which he knew was in store for him. From that time Mr. Rutledge took a deeper interest in him, and soon after urged him to announce himself as a candidate for the Legislature."

Mr. Lincoln at first declined to listen to the proposition, declaring that it would be impossible to elect him, but after repeated solicitation consented and made a partial canvass of the county. His first appearance on the stump is thus recorded: "It was at Pappsville, about eleven miles west of Springfield, upon the occasion of a sale by the firm of Poog & Knapp. The sale over, speech-making was about to begin, when Mr. Lincoln observed strong symptoms of inattention in his audience, who had taken that particular moment to engage in a general fight. Mr. Lincoln saw that one of his friends was suffering more than he liked in the *melee*, and, stepping into the crowd he shouldered them sternly away from this man, until he met a fellow who refused to fall back; him he seized by the nape of the neck and the seat of his breeches, and tossed him 'ten or twelve feet easily.' After this episode, as characteristic of him as of the

times, he mounted the platform, and delivered with awkward modesty, the following speech :"

"Gentlemen and fellow citizens, I presume you all know who I am. I am humble Abraham Lincoln. I have been solicited by my friends to become a candidate for the Legislature. My politics are short and sweet, like the old woman's dance. I am in favor of a National Bank. I am in favor of the internal-improvement system and a high protective tariff. These are my sentiments and political principles. If elected, I shall be thankful ; if not, it will be all the same."

Another one of his speeches is remembered during this campaign by his friend, J. R. Herndon, from which the following extract is taken : "Fellow citizens, I have been told that some of my opponents have said that it was a disgrace to the county of Sangamon to have such a looking man as I am stuck up for the Legislature. Now I thought this was a free country ; that is the reason I address you to-day. Had I known to the contrary, I should not have consented to run ; but I will say one thing, let the shoe pinch where it may. When I have been a candidate before you some five or six times, and have been defeated every time, I will consider it a disgrace, and will be sure never to try it again, but I am bound to beat that man if I am beat myself. Mark that !"

He was defeated by about 470 votes, though his own precinct gave him its solid support, with the exception of three, which softened the disgrace of his defeat.

He was now living with his friend, Mr. J. R. Herndon, and between them there sprung up an affection that amounted almost to love. While there Mr. Lincoln commenced to read law, devoting his attention to it with all the assiduity of his nature. He was handicapped by poverty, could not purchase the much desired books, but as one of his biographers aptly says, "although he was short of funds, he was long in the legs, and had nothing

to do but to walk to Springfield, where his friend, Mr. John T. Stuart, cheerfully supplied his wants."

"He use to read law," according to the statement of Mr. Henry McHenry, "in 1832 or 1833, barefooted, seated in the shade of a tree, and would grind around with the shade, just opposite Berry's grocery store, a few feet south of the door." It is further said that he occasionally varied the attitude "by lying flat on his back and putting his feet up the tree."

"The first time I ever saw Abe with a law book in his hands," says 'Squire Godbey, "he was sitting astride of Jake Hale's woodpile in New Salem. Says I, 'Abe, what are you studying?' 'Law,' says Abe. 'Great God Almighty!' I responded."

His persistence in the study of the law was as remarkable as his wonderful application; he improved every moment, reciting to himself after he had read a few pages, as he walked along the road on his journeys to Springfield after books, and it is recorded that on his first trip he mastered forty pages of Blackstone. In a very short time he put his acquired knowledge of the law into practical use. He began to draw up deeds, contracts, notes, and other legal papers for his neighbors, using a small dictionary and an old form-book, pettifogged incessantly before the Justice of the Peace, probably assisting that functionary as much as he benefited his own clients. He continued his study of the law in the same old way until he had already become a man of some distinction in the Legislature, but all the time he was doing a little work for his neighbors, he never charged them a cent, looking upon his efforts in this way as not exactly legitimate, as he was not admitted to the Bar until in 1837, when he had arrived at the age of thirty.

All the time Mr. Lincoln was reading law in his own peculiar manner, he was not idle in regard to training his mind in other directions: he studied all the nat-

ural sciences, wrestled with a copy of Kirkham's grammar, which was his *vade mecum*. The old book, still in the possession of the son of the man who first urged him to run for the Legislature when he lived at New Salem, is black with the thumb-marks of the great man all over it.

He read many of the standard historical works of that time with avidity, but always regretting through his life the want of more learning "by which he might embellish his letters and speeches." He became a great student of Shakespeare and Burns; it is claimed that his incessant reading of these two poets "had much to do in giving his mind that skeptical tendency, so fully developed by the labors of his pen in 1843-5, and in social conversation during many years of his residence at Springfield."

In 1834, Mr. Lincoln again became a candidate for the Legislature, was elected by a tremendous majority, but he had no means to sustain the office with dignity, not even enough to purchase a suit of clothes. He found a friend, however, in his needs, of whom he borrowed two hundred dollars, on asking for which Mr. Lincoln said: "Smoot, did you vote for me?" "Yes," was the reply. "Well," responded Mr. Lincoln, "you must lend me money to buy suitable clothing, for I want to make a decent appearance in the Legislature."

The story was current, and is repeated by many of his biographers, that Mr. Lincoln walked to the State capital, a distance of 200 miles to take his seat in the Legislature; it is not true, he rode in a stage, for he had determined to appear as dignified as was possible under the circumstances.

It was at a special session of this Legislature that Mr. Lincoln saw for the first time his future opponent in the great debate, Mr. Douglas, and it is recorded that on viewing him he said "he was the least man he ever saw."

Mr. Lincoln was again elected to the Legislature, and in 1837, moved to Springfield where he entered into partnership in the practice of law with John T. Stuart, having procured his license as an attorney early in that year.

In 1843, Mr. Lincoln was a candidate for the nomination to Congress on the Whig ticket but was defeated. In 1846, however, he was successful, having for his competitor the celebrated Peter Cartwright, the minister noted for his combativeness and his piety.

The Thirtieth Congress was organized on the 6th of March, 1847, and Mr. Lincoln was placed on the Committee of Postoffices and Postroads, and here we leave him, as his political career to the time he took his seat as President of a divided Republic, every student of history is, or should be familiar with, or he has not read the story of this great man's political career with that attention which it deserves and which enters so largely into the history of the most troublous period of our country.

With very few exceptions, all the men of eminence in the United States, outside of the military, made their living by the practice of law, and their National reputation as politicians. In the latter Mr. Lincoln must be placed first, although he was a great lawyer. None knew him better in his character as a lawyer, than the late Judge David Davis, who thus speaks of him :

"I enjoyed for over twenty years the personal friendship of Mr. Lincoln. We were admitted to the Bar about the same time, and traveled many years what is known in Illinois as the Eighth Judicial Circuit. In all the elements that constitute the great lawyer, he had few equals. He was great at both *nisi prius* and before an appellate tribunal. He seized the strong points of a case, and presented them with clearness and great compactness. His mind was logical and direct, and he did not indulge in extraneous discussion. Generalities and plati-

tudes had no charms for him. An unfailing vein of humor never deserted him; and he was always able to chain the attention of court and jury, when the cause was the most uninteresting, by the appropriateness of his anecdotes.

“His power of comparison was large, and he rarely failed in a legal discussion to use that mode of reasoning. The framework of his mental and moral being was honesty, and a wrong cause was poorly defended by him. The ability which some eminent lawyers possess, of explaining away the bad points of a cause by ingenious sophistry, was denied him. In order to bring into full activity his great powers, it was necessary that he should be convinced of the right and justice of the matter which he advocated. When so convinced, whether the cause was great or small, he was usually successful. He read law books but little, except when the cause in hand made it necessary; yet he was usually self-reliant, depending on his own resources, and rarely consulting his brother lawyers, either on the management of his case or on the legal questions involved. Mr. Lincoln was the fairest and most accommodating of practitioners, granting all favors which he could do consistently with his duty to his client, and rarely availing himself of an unwary oversight of his adversary.

“He hated wrong and oppression everywhere; and many a man whose fraudulent conduct was undergoing a review in the court of justice has writhed under his terrific indignation and rebukes. To his honor be it said, that he never took from a client, even when the cause was gained, more than he thought the service was worth and the client could reasonably afford to pay. The people where he practiced law were not rich, and his charges were always small.”

Judge Drummond said of Mr. Lincoln: “With a probity of character known to all, with an intuitive in-

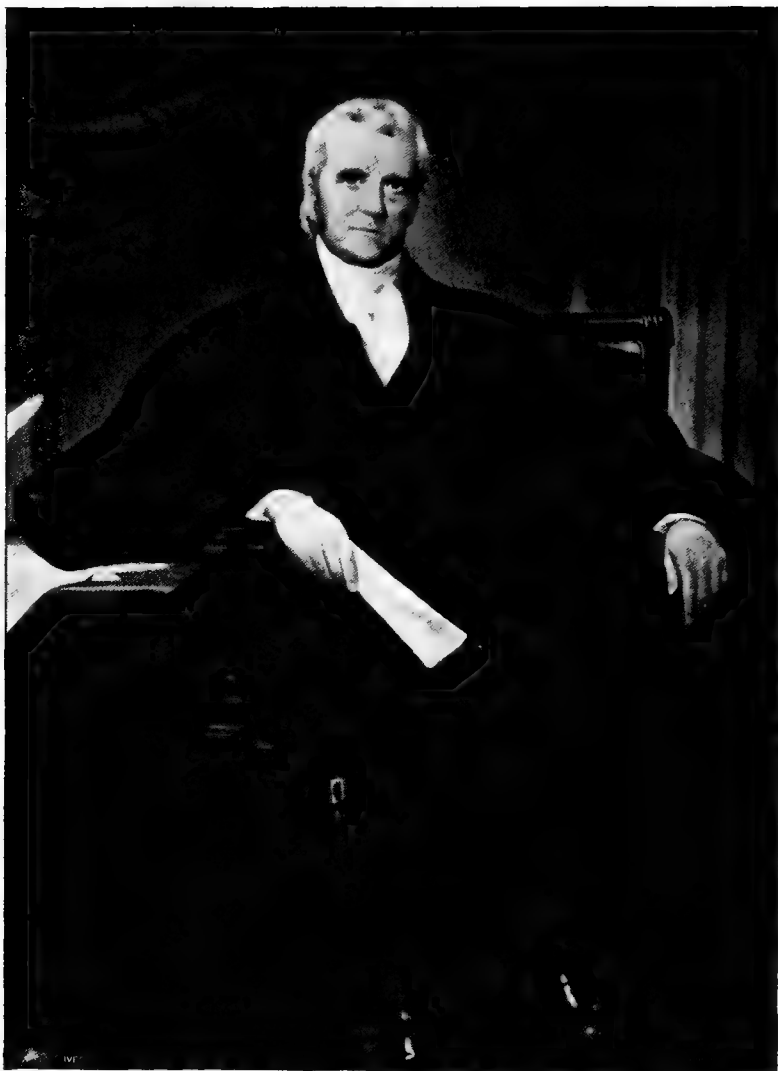
sight into the human heart, with a clearness of statement which was in itself an argument, with uncommon power and felicity of illustration, often, it is true, of a plain and homely kind, and with that sincerity and earnestness of manner which carried conviction, he was, perhaps, one of the most successful jury lawyers we ever had in the State."

Another eminent Jurist said of him: "Mr. Lincoln was not a great reader of law books, but what he knew he knew well, and within these limits was self-reliant and even intrepid. He was what is sometimes called, a 'case lawyer,' a man who reasoned almost entirely to the court and jury from analogous cases previously decided and reported in the books, and not from the elementary principles of the law, or the great underlying reasons for its existence. In consultation he was cautious, conscientious, and painstaking, and was seldom prepared to advise except after careful and tedious examination of the authorities."

Another spoke of him thus: "The great advocate is not he who plays the 'tricks of the trade,' but he who is able to read the sources and springs of motive and action, and lay bare the human heart with its impulses and weaknesses, its affections and aspirations. Such a man dominated by reason and conscience is always great; such an advocate and lawyer was Abraham Lincoln."

To record all the beauties of Mr. Lincoln's homely life, more than a volume would be required; this fragmentary sketch is only presented for the purposes of contrast; how from the depth of absolute poverty, obscurity, and by the power of his mind, an American rose to the most exalted position in the grandest Government on earth; one whose fame will never perish from the pages of history.





*J Marshall*

## JOHN MARSHALL.

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OF this great jurist, the fourth Chief Justice of the United States, the merest reference in this work must suffice, for what student of American history is not familiar with his life and fame?

Tradition tells that his remote ancestors came over to England with William the Conqueror, William le Mareschal, from whom the family claim descent, held a command in the Army of Invasion. From him descended John Marshall, nephew of the great Earl of Pembroke, who was Mareschal of England after the death of King John.

John Marshall, Chief Justice of the United States, was born near Germantown, Fauquier county, Virginia, on the 24th of September, 1755. In 1765, when he was ten years of age, his father removed to a farm on Goose Creek, where he resided until 1773 when his father purchased the Oakhill estate, situated at the base of Little Cobbler Mountain, in Fauquier county, and built a substantial house, which is still in an excellent state of preservation, though the estate has passed from the possession of the family. For more than one hundred years Oakhill was the homestead of the Marshalls, and it was there that the celebrated jurist grew up to manhood. It was afterward given to him by his father. The magnificent estate contained a thousand acres, and the dwelling was erected more than one hundred and thirty years ago, or rather a part of it, by Colonel Marshall, the father of the jurist.

John Marshall's father was a man of some wealth until impoverished by the war of the Revolution. His children were well instructed at the country schools and by private tutors, one of whom was the Reverend James Thompson, who came from Scotland about the year 1767. He soon married and established a school which was attended by the children of Colonel Marshall, but they are indebted for their well-cultivated minds and their proficiency in history, poetry, science and philosophy, to the personal instruction of their father. Books were placed in their hands, and each was critically examined, commended and encouraged; instead of the usual silly sports and pastimes of children, they were taught to discuss themes of importance. Here at Oakhill, John Marshall's mind was disciplined by his father's sound judgment, impartial justice, broad statesmanship, unflinching integrity, indomitable courage and ardent patriotism, laying the foundation for that judicial wisdom that made him illustrious in after years.

Doing his share of the routine work at the farm and confined to the private school-room by his studies, the future great lawyer was perfectly unconscious of his superiority, and when called into active public life, his modesty and supreme diffidence was a detriment to his advancement at first. The Revolution called him out, and when he met the brightest men of his day, his own powers were exhibited, but his modesty characterized him all through life; but others could see that of which he was perfectly unconscious, and he was put forward.

He was early chosen a lieutenant of a company of "Minute Men," and his first experience in action was at the battle of Great Bridge, the success of which was largely due to his gallantry and courage in command. In July, 1776, he received the appointment of first lieutenant in a company of the Eleventh Virginia, and in the following May was promoted to a captaincy. He was present

at the battles of the Brandywine, September 11, 1777; Germantown, October 4, 1777; Monmouth, June 28, 1778, and went through the horrors of Valley Forge.

The next year he retired from the army to attend a course of lectures on law and philosophy at William and Mary College, and in the summer of 1780, was licensed to practice, success marking his efforts from the beginning. In 1782 he was elected a member of the Legislature from Fauquier county, and was appointed to the Council of State. While practicing law in Yorktown he married Miss Mary Willis Ambler, daughter of the State Treasurer, on the 3d of January, 1783.

John Esten Cooke, in his "Early Days of John Marshall," says: "At the period of this first engagement, he was an ardent young lover of nineteen, she a fair maiden of fourteen. An attachment was formed at first sight. The young Marshall endeared himself to the whole family, notwithstanding his slouched hat, negligent and awkward dress, by his amiable manners, fine talents, and especially his love for poetry, which he read to them with deep pathos. In proof of the ardor of his character and the tenderness of his attachment, he often said 'that he looked with astonishment on the present race of lovers,' so totally unlike what he had been himself."

His unalterable and persistent love for the Union is best expressed in his own words, yet they are so simple that they do not seem to have emanated from the lips of a great lawyer. Their very simplicity is the test of the honesty and sincerity of the mind that gave them utterance: "I had grown up at a time when the love of the Union and the resistance to the claims of Great Britain were the inseparable inmates of the same bosom; when patriotism and a strong fellow-feeling with our suffering fellow citizens of Boston were identical; when the maxim—'United we stand; divided we fall'—was the

maxim of every orthodox American. I had imbibed these sentiments so thoroughly that they constituted a part of my being. I carried them with me into the army, where I found myself associated with brave men from different states, who were risking life and everything valuable, in a common cause, believed by all to be the most precious, and where I habitually considered America as my country, and Congress as my Government."

Marshall sat in the Convention of Virginia, which met at Richmond, to act upon the question of the adoption of the Federal Constitution. His speeches are of record, as are those of the other great men who assembled there, but Judge Story says: "The printed volume affords but a very feeble and faint sketch of the actual debates on that occasion, or the vigor with which every attack was urged, and every onset repelled, against the Constitution. To Henry's earnest expostulations, pleading, as he thought, for the first principles of liberty, Marshall answered: 'I concur with him in the propriety of the observance of such maxims. They are necessary in any government, but more essential to a Democracy than to any other. What are the favorite maxims of Democracy? A strict observance of justice and public faith, and a steady adherence to virtue. These, sir, are the principles of a good government. No mischief, no misfortune ought to deter us from a strict observance of justice and public faith. Would to Heaven that these principles had been observed under the present Government! Had this been the case, the friends of liberty would not be so willing now to part with it.'"

Mr. Marshall was sent to France as one of the Commissioners, as stated in the language of the nomination, to "dissipate umbrages; to remove prejudices; to rectify errors, and adjust all differences by a Treaty between the two countries." The treatment the Commissioners of the United States received at the hands of the

French Government; the deceitfulness of Talleyrand, and the failure of the negotiations, are matters of history with which the student of his country's progress is presumed to be familiar. Judge Marshall briefly alludes to the discourteous treatment received over there, in his "Life of Washington," thus: "History will scarcely furnish the example of a nation, not absolutely degraded, which has experienced from a foreign power such open contumely and undisguised insult as were on this occasion suffered by the United States, in the persons of their ministers."

Mr. Marshall was undoubtedly the leading lawyer at this time in the State of Virginia, and was devoted to the practice of his profession, but he was, at the earnest personal solicitation of General Washington, induced to become a candidate for Congress. He was elected and took his seat in the winter of the year that Washington died. He was offered the port-folio of the War Department, which was declined, but he accepted that of Secretary of State, in which office he served for a short time, and then was appointed Chief Justice of the Supreme Court.

While serving in the Lower House of Congress, his friend, General Washington, died, and it became his duty, as the member from Virginia, to announce that sad event, and to prepare the resolutions of respect. They are to be found in his life of that illustrious man, yet he modestly suppresses his own name as the author of them.

For thirty-four years, until his death, in 1835, Justice Marshall presided over the deliberations of the Supreme Court of the United States, with all that wonderful ability and legal genius which history rightfully accords him. In that exalted position, Chief Justice Marshall was called upon to determine the most complicated and delicate questions of Constitutional law aris-

ing out of the conflict of the several states with the General Government ; the power of the courts of last resort over the acts of the Legislatures. By virtue of his office he presided at the celebrated trial of Aaron Burr for high treason. In that great State case his rulings on points of law and his charge involve some of the most momentous questions affecting the rights of the citizen, and which every young law student should read and digest.

For several years Judge Marshall relieved the severe routine of the Supreme Bench by engaging himself studiously in that labor of love, his "*Life of Washington*," which was published in five volumes during the period 1804 to 1807. Many histories of the life of Washington have appeared since that of Marshall's, but none of his later biographers knew the great man personally as did the venerable Chief Justice, who was not only a contemporary, but a warm, close friend of Washington. He had served with, and shared the hardships and triumphs of Washington, both as General and President, and hence his production, considered from a purely literary standard, is not so elegantly written as some of the others, but for truthfulness and accuracy of detail, it is incomparable.

In 1829, there met at Richmond, Virginia, an assemblage of the most brilliant men that Commonwealth has ever produced, to frame a new Constitution. Chief Justice Marshall was one of the number, and although past the age of seventy, his mental power was not only unimpaired, but he had retained all his natural brilliancy, sound judgment and acumen. Toward the close he was an extreme sufferer from a disease of the bladder, and at the age of eighty he repaired to Philadelphia to receive medical assistance in the form of a surgical operation, but he survived it only a few months, dying in that city on the 6th of July, 1835. His remains were conveyed

to Richmond, Virginia, where they were interred by the side of his beloved wife, whose death, many years before his own, had affected him deeply. His epitaph, which was written by himself two days before passing away, records only the simple facts of his birth and marriage, with the name of his wife, and the date of his death.

The following from Duyckinck's *Eminent Americans*, gives a description of the famous Chief Justice, and some of his characteristics :

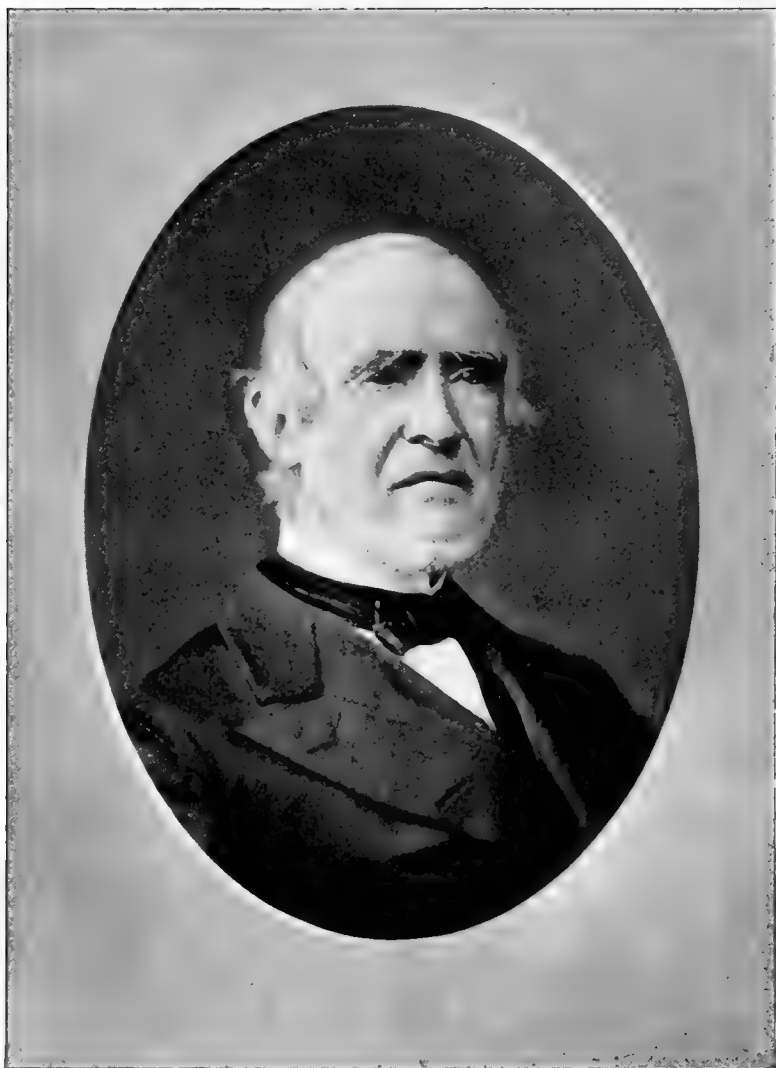
"In person, Marshall was tall, slender, erect ; his eyes black—not large, but bright ; his hair black. The simplicity and benevolence of his character were extraordinary. Anecdotes of the Chief Justice are the delight of the social circles of Virginia, in which he is remembered by many survivors. They all point to his genuine, unaffected worth, and the kindness of his nature. The story is told of his Club at Richmond, and their innocent, boyish hilarity in pitching quoits, a game in which Marshall delighted from youth. He was careless of dress ; quite rustic in his appearance. An anecdote is related of a fashionable young gentleman, not acquainted with his person, meeting him one day at market, and having occasion to send home a turkey which he had purchased, placing it without hesitation, in the hands of the Chief Justice, who accompanied the youth home with his burden. It was only when the porter pleasantly refused pay for his service that the proprietor of the turkey began to perceive something in the appearance of the old gentleman, whom, upon inquiry, he ascertained to be John Marshall.

"\* \* \* Let the youth of America ponder well the great example of his life, and note how few and simple are the elements of success in the world. Nature had, indeed, given Marshall a capacious mind, of equal power and discrimination. The rest seems to have been accomplished by a process as spontaneous as the flowering of

the plant from the bud; by the simple exertion of straightforward fidelity and honesty. He goes quietly and modestly through the world, never seeking office, the office always seeking him. No controversies or discussions darken his fair fame. His high duty is before him. Washington summons him to it; he would decline it, but goes forward. He had been called to the Supreme Court, and refused, but called a second time, he accepts; and serving longer than a generation, his fame growing out around him noiselessly, like a process of nature, he gathers his robes about him and lies down to rest at fourscore."







*Ed. Honors*

## CHARLES O'CONOR.

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THIS great lawyer, who for half a century appeared on one side or the other of nearly every important case tried at the Bar of the metropolis of the United States, was born in that City, where he rose to be one of the most eminent of its many famous jurists, on the 22d day of January, 1804, and died on the 12th of May, 1884, at the ripe age of eighty years.

In his boyhood days he attended school for a term of two months, and, strange as it may seem, that was the extent of his educational privileges. His father, who was a shiftless sort of an antiquated gentleman, his mother having died when he was about eleven, apprenticed him to an acquaintance who was a manufacturer of pitch, tar, turpentine and kindred products of the pine. With this uncongenial man, and his more uncongenial trade, young O'Connor remained a whole year, but in that relatively short time mastered the art, which he never forgot. He told a friend sixty years afterward that he was so familiar with the processes whereby the sap of the pine was converted into its various commercial wares, he could carry on the business without any difficulty.

For the necessarily dirty work which the character of the industry involved, the neglected youth received nothing but his board, the absurdity of which he one day realized and determined to seek some other employment where he could obtain wages.

He must evidently at this time have laid his griev-

ances before his ordinarily indifferent father, who now, however, seems to have suddenly awakened to an interest in his son. He placed him with another of his rollicking acquaintances named Stannard, who pretended to practice law. From the record which has come down to this generation, it seems that Mr. Stannard neither had cases to try, nor was his office supplied with any law books, from which young O'Connor could initiate himself into the mysteries of the profession. He managed to get hold of a worn copy of Blackstone, but on attempting to read it, could not understand it at all. He was then only fifteen years old and after going through the work two or three times, was no wiser than before in his knowledge of legal lore.

Two years later he changed preceptors, going to the office of Lemoyne & Thompson. When he arrived at the age of eighteen he again transferred himself to the office of Mr. Joseph Fay, with whom he remained until his admission to the Bar. He was then possessed of just twenty-five dollars, which he judiciously expended in the purchase of a desk, some chairs and paper and a tin sign.

He had devoured Blackstone and every other law book upon which he could get his hands; but law libraries were not as common then as now, the most prominent lawyers possessing only very few books.

The newly-fledged attorney had an office, some cheap furniture, pens and paper, but he did not own a single law book. This was his great trouble; he must have them, but how was he to obtain them without money?

He struggled over this vexed problem of the books day after day, no nearer a solution of the question in view, when on going into the office of the County Clerk one morning, his attention was attracted to a notice posted there of the offer of one hundred and fifty-six volumes of law books, just what he needed, at the ridic-

ulously low figure of two dollars a volume. At the suggestion of a young friend he took a note for the price of the little library, to a gentleman whom he had often met in the office where he had last read law. It required some nerve to approach the merchant, with whom he had but a very slight acquaintance, he plucked up the courage, however, after deliberating over the matter in his mind for some time. When he made known his request to the gentleman, no reply was vouchsafed to him, and young O'Connor felt not a little chagrined.

At the end of a week judge of his surprise to see the merchant walk into his little office and volunteer to become his endorser to the amount of the value of the library. As soon as he had poured out his thanks to his benefactor, and the latter had retired, off went the happy young advocate to the bookseller, who let him have the books on the security he had brought.

Mr. O'Connor never forgot the kindness of the man who had thus befriended him in the hour of his sorest need. He left to the grand-daughter of his early endorser, a legacy of one-third of his estate, real and personal, after deducting some other small gifts, which must have amounted to a very large sum received by the lady.

The first case that resulted in bringing him prominently to the notice of the public, was that Chancery suit known to the history of the Bar of New York, as *Bowen v. Idley*. The defendant, a foreigner, married the natural daughter of the plaintiff, whose mother had been a servant in his house. Upon the establishment of the illegitimacy of the defendant's wife, in whom the ownership of certain property rested, Mr. O'Connor asked the Court for a change of guardianship during the trial. The Court, not very readily, acceded to the request, and the son of Chancellor Kent was appointed. Mr. O'Connor managed to ferret out the real mother of the defendant's

wife, a low, coarse woman, and when the case came up for trial was quickly disposed of so far as the illegitimacy of Mrs. Idley was concerned.

The full reports of the celebrated cases in which Mr. O'Connor has appeared make over an hundred volumes. Perhaps the most celebrated in all the annals of American jurisprudence, for many reasons, is the case of *Forest v. Forest*, which was tried more than a third of a century ago, and which caused a wonderful excitement in New York at the time.

Mr. O'Connor's great characteristic was the sense in which he made the vast amount of legal learning of which he was possessed, clear to the minds of the most illiterate juryman before him. His manner was quiet, almost icy at times, as he poured forth his unanswerable logic in his arguments, and at no period in the trial of the most consummately difficult case did he get "rattled."

It is said that he was very much annoyed because nearly everyone who did not know him or his antecedents, thought him an Irishman, while the fact is, that both his father and grandfather were born in the United States. He was a Catholic in his religious faith, and he said to a friend: "So far from being an advantage, the reputation of being an Irishman and a Catholic has been to me a most serious political, social and professional disadvantage."

Mr. O'Connor enjoyed an immense income from the practice of his profession, but he had some peculiarities in relation to the matter of fees, in which he differed from a majority of lawyers. His charges were always within the domain of moderation, and he rarely demanded of his clients retainers, waiting until he had completed his services, then took all that was due him in one sum. He often labored for years in the trial of causes without receiving a cent of pay until their conclusion.

That Mr. O'Connor had strong political ambitions,

must be conceded by all who knew him well, and the fact that preferment did not come to him must have been a source of much grief to one mentally constituted as he was. In 1872 the element of Democracy dissatisfied with the nomination of Horace Greeley, met in convention at Louisville, Kentucky, and nominated Mr. O'Connor for President, and John Quincy Adams for Vice-President. These Democrats denominated themselves as "Straight-outs." The ticket received quite a number of votes in many parts of the country, but did not cut much of a figure in that eventful campaign. Gifted with such powers as he possessed, imperious in his habits, and not always content with the decision of the majority, he was considered, perhaps, as an unsafe political guide, therefore office was not pushed upon him, though no man was acknowledged to be his superior in intellectual capacity.

While his wealth permitted him to indulge in the luxury of books, and he had a splendid library, the majority of them, however, were those pertaining to the law. He never was much of a general reader. It is said of him in this particular, that at one time when he was at the height of his fame, a young man wrote him soliciting his advice as to what books he should make a study in general literature, at the same time enclosing a list of a large number he had already carefully gone through. The reply of the great lawyer was, that of the list of books which he had enumerated, he had never heard the names of more than half of them, let alone having read them; therefore did not consider himself competent to advise on such a matter, but that he ventured the suggestion, it would not hurt him to read less and think more.

The following incident is indicative of the reputation Mr. O'Connor enjoyed as a persistent, successful litigant, and the prestige his name as a great lawyer carried with it. At one time, during a fit of sickness, when he

was really too ill to transact any business, one to whom he was under no obligations of any character, requested a loan of some \$25,000, which was granted, Mr. O'Connor taking as collateral Indiana railway bonds, then paying six per cent. The Company paid the first interest when it became due, but at the next date of its coupons, they were defaulted. Mr. O'Connor permitted the matter to drag along in this manner giving no attention to his bonds for three or four years, when one day it occurred to him to ascertain whether they had any value, so he wrote a letter to a leading-law firm in Indianapolis, in relation to the securities, receiving in reply a very discouraging statement as to their worth. Not caring to enter personally into a suit, he ordered the firm to sue and obtain judgment against the Company. After some correspondence and suggestions that such or such per cent could be obtained for their face value, which Mr. O'Connor declined to accept, he was notified that the mortgage had been foreclosed and the road sold for a mere song. He insisted, however, that the firm he had employed should go on and procure judgment on the bonds, to which they replied that now the bonds might be disposed of to better advantage than before, suggesting that they be thus negotiated; but Mr. O'Connor answered them very curtly, stating that he would have both principal and interest, or he would come out West in person to commence a suit. In a very short time he received the full amount, principal, interest and costs; the theory of this promptness, on the part of the road, was that Mr. O'Connor's staying qualities in a lawsuit were known, and a settlement was preferred, rather than a long and tedious course of litigation with the eminent lawyer.

Mr. O'Connor's industry and physical endurance were great; he invariably made himself master of every detail of his cases before his appearance in the court room to argue them. As a special pleader he was doubt-

less without a superior in the country; one of his greatest injunctions to a young lawyer was to try and make himself master of the art of special pleading. Mr. Tilden said of Mr. O'Connor's wonderful legal ability, that he believed he possessed a more perfect idea and knowledge of the science of law than any lawyer he knew of in this country or abroad.

No lawyer made more money or made it faster than Charles O'Connor, nor was anyone more liberal in charities and donations; he could have made his income almost anything he chose, but as stated previously, he was ever moderate in his professional charges, rarely receiving pay until his work was finished.

His daily habits were rather out of the usual course of a man who was socially at the top round of the ladder. He had certain rules for the government of his health, from which he never deviated; in fact he was a crank in their observance. Seven o'clock was his breakfast hour, two for dinner, seven for supper and nine for retiring. He kept no carriage or horses, as he could not ride comfortably, and when not busily engaged in his own business, found an abundance of work of which he was fond, in conversing with his brother members of the Bar, on knotty and abstruse legal propositions upon which his judgment was asked.

In relation to his own estimate of himself, he believed that he would have made a success of anything that he might have attempted in his youth, for it was only by the hardest and most persistent study that he attained the prominence in the law which he did; and none were aware of that fact more clearly than himself.

His life was full of acts of beneficence; it was a difficult matter for him to say no to any appeal for charity, and that he was most outrageously imposed upon there can be no doubt, but it never disturbed him in the least to be told afterward that his charity had been mis-

placed. His logic, under such instances, being that "he was the better for what he gave, if the receiver was not."

In the year 1852, a copartnership was formed between Mr. O'Connor and the distinguished William Fullerton, and for many years this pair of legal giants fought the most transcendent talent in the American forum. This association was made when Mr. Fullerton was thirty-four and when Mr. O'Connor was forty-eight. At this date neither had attained anything like the reputation that so celebrated them in after years. Soon after the formation of that firm, Mr. O'Connor was appointed United States Attorney for the District of New York.

In the domain of the law, Charles O'Connor was not unlike Stephen A. Douglas in the domain of statesmanship. Both were dry, rigid and inflexible, rarely alive to the funny side of things, and knowing or caring for little outside of their respective vocations.







*Geo. R. Peck*

## GEORGE RECORD PECK.

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BY PROFESSOR JAMES WILLIS GLEED.

IN 1850 almost the entire western slope of the Mississippi valley was a desert. The territory was vast and fertile, the climate salubrious. The annals of the second half of the nineteenth century will contain nothing more wonderful than the story of this region; its occupation, in the words of Professor Bryce, by a great and "energetic race, with all the appliances and contrivances of modern science at its command;" its conversion within the short space of forty or fifty years into a dozen populous and powerful commonwealths. The development of the West seems the work of a magician; and what wand in his hand has been the instrument of such wonderful work as the steam railroad? What contrivance of modern science has accomplished so much in the creation of this new world of the West, as the corporation—capital set co-operating with capital? The modern tendency toward commercial combination and co-operation has created new fields in the domain of the law, and a new class of legal practitioners—the greatest and most powerful of the age. One of these is the subject of this sketch.

George R. Peck was born May 15, 1843, near Cameron, in Steuben county, New York. His father, Joel M. Peck, was a farmer, a man of sincere piety, remarkable common sense, great industry and energy, but without much education; a courageous and indomitable spirit delighting in hardships and difficulties, yet habitually mild and full of kindly humor. He traced his ancestry

through a line of plain, hard-working, God-fearing Connecticut farmers, from one William Peck, who came from England to New England in 1637, and who was one of the founders of New Haven. Only one professional man is noted in the direct line, and that is Samuel, a son of William, who was a clergyman and teacher, and who was one of the earliest teachers in the Hopkins Grammar School, which still flourishes in New Haven. There were a number of clergymen and scholars of distinction in the collateral branches of the family.

Mr. Peck's mother, whose maiden name was Purdy, was a woman of brilliant wit and eager and powerful intellect. She had enjoyed good school advantages in her youth and, better still, she had a keen and insatiable taste for books, which would have made her an educated woman in the best sense of the term, in any lot or place where good books were to be had. She was very ambitious for her children, and lived to see her efforts in their behalf amply rewarded. There were seven children in the family. Of these, George R. was the youngest. When he was six years old, his father moved from Chenango county, New York, where he had resided nearly all his life, to the State of Wisconsin. He bought and settled upon some wild land near Palmyra, in Jefferson county. The first dwelling was a log cabin.

From this time, 1849, until the outbreak of the war, the life of the youngest son was the ordinary life of the frontier farmer's boy. It is a life with multitudinous advantages. Until fourteen years old he attended the district school while it was in session and worked on the farm the rest of the year. At home he found an abundance of poverty and hard work, and also found an abundance of intellectual, and moral training and stimulus. The family was full of character, individuality, intelligence, wit, fire and force. The family life could never be dull or commonplace. Of books they had not many.

Mr. Peck remembers "Pilgrim's Progress," "Paradise Lost," "Hale's History of the United States" and "Uncle Tom's Cabin," all of which he read when very young. He also remembers, when still very young, going weekly to the circulating library at Palmyra for books for his mother; and he does not remember when they were without the weekly New York *Tribune*. At fourteen he entered the High School at Palmyra, and remained there two years. By this time he had read the books in the village library, and all he could borrow elsewhere.

The winter after he was sixteen, Mr. Peck taught school at a salary of twenty dollars a month, out of which he paid six dollars a month for board. He continued to work for his father during the summer until the outbreak of the war, and was graduated from the gymnasium of the farm with perfect health and a constitution of iron. Happy the lad born and brought up in the country. There he gains strength of body, most necessary if it be his destiny to meet and endure great intellectual and nervous strains. There his mind has room and time to grow. There his intellectual stomach and appetite are free from the pernicious effects which the excitement and diversions of the city almost invariably produce. There the growing mind finds abundance of sunlight, air and rain, and silently matures the courage to go forth and meet the world. From the high school Mr. Peck went to Milton College, where he remained not quite a year, giving up at the end of that time his college course to become a volunteer soldier in the war of the Rebellion. At the time of his enlistment he had become a good English scholar, had accomplished considerable in higher mathematics, and knew a little Latin and less Greek.

He was seventeen when the war broke out, and entered the army in 1862. He served till the close of the war, first as a private in the First Heavy Artillery of

Wisconsin, then as Lieutenant, and afterward as Captain in the Thirty-first Wisconsin. He went with General Sherman on the march through Georgia, and was engaged in the battles and sieges of that eventful campaign. He was not yet twenty-two when Lee surrendered. Thousands of his fellow soldiers were boys. The veterans of to-day look at their sons of eighteen and shudder at the thought that at that tender age great numbers of them took up the rude business of war. And without question those hurly-burly years wrought much good as well as evil in the men who were to control the Nation in our day. If there was lawlessness and license in the camp there was also discipline; and a kind of discipline, too, of very great value indeed to those whose lives were to be devoted to "the lawless science of the law." The practice of the law is war. The great lawyers of the fifties made great generals in the sixties; and the good soldiers of the sixties made good lawyers in the seventies.

Mr. Peck went to Washington with the other "veterans" in the spring of sixty-five and marched with his command in the Great Review. He returned to Wisconsin, was mustered out, and at once began the study of law at Janesville, with Hon. Charles G. Williams, who was afterward for ten years a member of Congress. He remained in Mr. Williams' office for one year.

About this time he was married to Miss Julia A. Burdick, who was a student with him at Milton. Her power was of a different kind from his. Her nature, calm and serene, was the complete supplement of his. Amid the trials of poverty and adversity, as well as amid the cares of prosperity and success, his never-failing refuge has been a home kept at all times helpful and well-ordered under the guidance of her strong and steady hand; a home now cheered by the presence of four bright and beautiful children.

In the fall of 1866, while yet a law student, he was

elected Clerk of the Circuit Court. This office he held for two years, continuing his studies meantime, and beginning the accumulation of a law library. Refusing a re-nomination at the end of his term, he opened an office and began practice in January, 1869. In the fall of 1871 he determined to seek a wider field and, after visiting Kansas to look for an available location, he selected Independence and removed there in December. Hon. George Chandler, then a young lawyer in Janesville, afterward a judge, and now Assistant Secretary of the Interior, went with him. These two opened an office together in January, 1872. Their success was immediate. Kansas was growing very rapidly, and in a short time Peck & Chandler had a large general practice which extended into nearly all the counties of Southern Kansas. In the short space of two years Mr. Peck had achieved such a reputation and had made so many friends among the leading men of the State by his attractive qualities of character that upon the united request of the Kansas delegation in Congress President Grant appointed him United States District Attorney for Kansas. He came into office in January, 1874, at the age of thirty. In February he had orders from Washington to bring suit for the recovery of a great area of land, 960,000 acres in all, including a large portion of the counties of Labette, Neosho, Montgomery, Allen and Wilson. In this litigation he came in contact with such lawyers as William Lawrence, Governor Shannon, Jeremiah S. Black, and others, holding his own with them, and winning in the contest both, in the trial and in the Supreme Court. During Mr. Peck's incumbency of the District Attorney's office he had charge of a large number of highly important and interesting suits between the Government on the one side, and the railroads and others on the other side, besides all the routine criminal work, which was heavy at that period. In all this litigation he was re-

markably successful. He was re-appointed by President Hayes, and resigned his office in 1879. He had for his assistants Hon. Thomas Ryan, afterward member of Congress and Minister to Mexico, and Hon. Lewis Hanback, afterward member of Congress. When he became District Attorney he removed from Independence to Topeka where he has ever since resided. He soon formed the firm of Peck, Ryan & Johnson, and undertook the labors of a general law business, in addition to his official duties.

When Mr. Peck resigned his office he had already acquired a very large private practice and wide experience in a great variety of litigation. He was retained by the Atchison, Topeka & Santa Fe Railroad Company in 1879, and in 1881 was elected General Solicitor of that corporation, a position which he has since retained except for a short time during which the late Judge McCrary was General Counsel. This appointment came to him at the close of the first decade of his residence in Kansas and, practically speaking, the first decade of his career as a practicing lawyer.

The second decade now nearing its close, is of course intimately bound up with the growth of the great system of railways to which his services have been given. When Mr. Peck became General Solicitor the system comprised about nine hundred miles of road lying in Kansas, Colorado and New Mexico; in 1890, it comprised nine thousand miles of road lying in Illinois, Iowa, Missouri, Indian Territory, Arkansas, Texas, Arizona, California and Mexico, as well as in Kansas, Colorado and New Mexico. It is hardly necessary to suggest that this swift growth has devolved an enormous burden of care and responsibility upon the shoulders of the general legal adviser. In organizing new corporations, securing municipal aid, rights of way and terminal facilities, in buying, leasing, consolidating new and old lines, in as-

sisting the promotion of financial policies in the East and political policies in the West, in organizing and controlling legal departments in a dozen states and territories, in preventing and anticipating unjust legislation, in interpreting and applying old and new laws, Federal and State, to new and old conditions, in guiding and defending a vast number of corporations, more or less intimately bound together, operating in a dozen different sovereignties under constantly and swiftly changing conditions both commercial, legal and political—in all this and much more that will readily suggest itself to those acquainted with the legal work of a railroad in the West, Mr. Peck has done so much from 1881 to 1891, and performed it so superlatively well, that his acquaintances constantly wonder how he still has time for other tasks, and why at the end of the decade he remains, apparently, as young, as vigorous, as light-hearted as he was at its beginning. Hardly has a question arisen in the American law of corporations during the last ten years that Mr. Peck has not had to meet and solve during that time, and generally to solve under conditions where to misjudge the future decisions of courts meant great loss to his clients.

Mr. Peck's wide experience in every kind of litigation, his uniform success in all his undertakings, the number of important cases in which he has been engaged, and his present position at the head of the legal department of the largest and most complex system of railroads in the country ; all these things entitle him to be called a leader of the Bar, and the Bar gladly concedes to him that distinction.

It may be interesting to note the special characteristics which have won for Mr. Peck his great success. In the first place, he was endowed by nature with a vigorous mind. It is strong rather than subtle. His faculties are exceedingly well balanced, which means that he has

what we call common sense and good judgment. He was also endowed with the iron will, the invincible determination which always brings success of some kind and in some degree, no matter what a man's equipment may be in other respects. This determination speaks in every lineament of Mr. Peck's countenance. His splendid physique and perfect health supplement the natural activity and energy of his mind so that he is and always has been, a tremendous worker, though not a drudge. His life has been very laborious, but he carries his burdens in so humorous and light-hearted a fashion, and is so boyish in his relaxation, that the part played in his career by industry is only half suspected.

His courage has had much to do with his success. Is anything more essential in a great advocate? Not the courage of ignorance or insensibility, but the courage that spares not itself; that hates defeat, but is by no means destroyed when defeat comes. Mr. Peck never appears daunted, and probably seldom is. His keen sense of humor and his quickness of wit, of course, frequently contribute to his success in jury cases. With him the cause has always been the thing in mind, not the remuneration. A man practicing law merely for money may make a great fortune, but he never makes a great lawyer. Mr. Peck is not a money-maker, although it is probable that no lawyer west of the Mississippi makes, in his professional work, more money than he. He has never stood in awe of the dollar, nor moved readily at its beck.

Perhaps nothing has contributed so much to his success in the trial of causes as his thoroughness in preparation. He attacks all legal questions with an unbiased mind, and investigates them to the bottom from the standpoint of the judge, rather than that of the ordinary advocate. He searches out the weak points of his own case with pitiless thoroughness, and knows his adversary's case better than the adversary himself. To investi-

gate a controversy thus and yet to remain the advocate, with keenness and courage unabated, requires a mental fiber and a moral temper precisely as rare as real greatness. Such fiber and temper Mr. Peck possesses in a large degree. It appears not merely in his professional work. In his investigation of philosophical, historical and literary questions, he displays the same spirit of patient tolerance and fairness. Yet in the end he reaches opinions regarding the subject thus studied, quite as decided as those of the narrowest and blindest partisan. He is a man of convictions, not of mushy concessions.

He fights fair. All men of genuine courage do. He believes in frankness, candor and honesty, and evinces his faith by his works. He therefore enjoys the full confidence of his opponents and of the Court.

He has been a great reader, not only of law books, but of books not found in law libraries, and a great student of philosophy, history and general literature. He believes in culture, both as a means and an end. He is not afraid of ideas and ideals. He believes that strength in the world of affairs is increased by activity in the world of thought. He has gathered about him four or five thousand of the best books, and is faithful to them in spite of distracting cares.

Besides these things, Mr. Peck has many attributes of character which make him agreeable and attractive to other men; personal traits which win for him a multitude of friends wherever he goes. His supremacy is not attributable to any one thing, but to a happy combination of training, experience, and innate moral and intellectual endowments. There are lawyers with wider and more accurate knowledge of substantive law than he; there are lawyers more dextrous in the technicalities of evidence and practice; there are readier speech-makers and subtler logicians; but it will be difficult to find on the western slope of the Mississippi valley another law-

yer possessing in the degree that Mr. Peck does, at once the learning, the art, the common sense, the logic and the eloquence. It will be hard to find another lawyer whose advice turns out so uniformly sound, whose trial work is so uniformly successful, whose strength, as well before jury as before court, is so great as Mr. Peck's. His speech is not precisely fluent nor subtle nor ornate; it is determined, earnest, logical and convincing.

This searching into the sources of a man's power and success perhaps comes to little after all. In Mr. Peck's case, a friend of his suggests as the solution of the whole matter, that he "succeeded because he was fortunate enough to be born Peck." Certainly no one can look at him and imagine him unsuccessful. He looks a born conqueror.

Mr. Peck has always been a Republican, and an active and influential politician. He has never been a candidate for an elective office since he came to Kansas, but he has been a power in almost every Republican convention and in every campaign during the last twenty years. He has had much to do with the making of senators, congressmen, governors, judges and officials of all kinds, both State and Federal; yet he has never been, neither has he been called, a political boss. His influence in politics has been beneficent. It is true that his law partners and friends and intimates have held a great number of distinguished offices, but it is also true that they have been good and capable men. He has done much in behalf of many in the political world, but the recipients remember the obligation, not he. He has never asked any office for himself, and probably none would tempt him from his professional career.

Mr. Peck served a number of years as regent of the State University, and was of invaluable service to that growing institution. His labors in its behalf neither began nor ceased with his official connection. For years,

dependent upon legislative appropriations for its support. the University frequently had need of strong and sincere friends in political circles, and the cause of higher education in Kansas owes much to his untiring zeal. In recognition of his professional eminence and scholarly attainments, as well as his services in behalf of education, the University has conferred on him the degree of LL.D.

As an orator and lecturer, Mr. Peck is in constant demand. He loves best to talk to the students of to-day and to the soldiers of yesterday. He has delivered addresses before many schools, colleges and educational meetings. These addresses, coming from a successful man of affairs, filled as they are with an unmistakable devotion to that which is highest and best in human life, with a strong, sincere, manly adherence and loyalty to the sacred cause of education, have done much in rightly shaping the spirit and aim of the young men of the West; have done much which especially needed to be done in a community where material interests and progress were constantly overshadowing interests of a profounder though less obvious kind.

He has spoken often to the veteran soldiers of the country on all sorts of occasions. Several of these addresses are in print and have had a wide circulation. They contain no clap-trap, no cant and no bitterness. They are full of a poetic, half-melancholy eloquence, like the mellow tolling of deep-voiced bells. Perhaps the most beautiful and moving of all his orations is that which was delivered before the Indiana Commandery, of the Loyal Legion at Indianapolis, on July 4, 1890. The unity and symmetry of the address are so nearly perfect that each paragraph calls for the next, and it is difficult to make extracts, but the exordium and peroration will suggest the character of the whole:

"From the distant West, the historic, fruitful and now peaceful fields of our first civic strife, I bring you a

salutation and a greeting. The day and the occasion are happily mated. From immemorial times, men who have borne arms have enjoyed a certain distinction; the tribute that human nature yields to those who have played the big stakes of life and death. Responsive to, or perhaps created by, this sentiment, is the tendency of those who have been in the stress and rigor of the game, to look back with a feeling which is partly love and partly pride, on the old days and the old cause.

"It matters little that many seasons have passed since arms were stacked, nor that we who were young and gay have felt the frost in our joints, and on youthful forms the rust of the implacable years. The soldier must not question fate. This much is ours: to know that if eyes beam somewhat less brightly, and heads reveal the grey autumnal touch, the things that once were dear are precious yet, and the faith of other days has not departed.

"This is a holy day; but surely we may be pardoned if while we remember that it means a nation's birth, some of us shall recall that it means also Vicksburg's famous victory, and the river that flowed unvexed to the sea. Nor can a Union soldier be blamed if he remembers, that once he kept the day on the field of Gettysburg, knowing at last that the Fourth of July was not a dream, but a living and majestic reality. Such memories as these, lingering fondly in the soldier's heart, are the true sanctions of this order, to which we belong, and of every organization in which the veterans of the war have gathered themselves. In the due adjustment of rights and interests; the establishment of those great equities that mark the true relation of a citizen to his government, the soldier of the Union has no right to claim that the Nation belongs to him. But he has a right to think that in a peculiar sense he belongs to the Nation. Whatever weakness may dwell in his heart,

whatever sorrows may darken his life, whatever temptations have been too strong for his will to resist, nevertheless nothing can rob him of the dignity that belongs to every man who can say, 'I helped to save the United States of America, one and indivisible.'

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"Our lives are short. The world, ancient and wrinkled with the years, is strange and curious, for we hardly learn it before we pass away. It is sometimes hard to comprehend that anything is worth struggling for. But, thanks to those who have marked the way, life is not altogether fruitless even here. Death is a mystery but not a terror to those who have been wrought upon by a great cause. Out in the street are the sounding demonstrations which tell us that in a way less quiet than ours youth and strength are giving their lusty brawn to the celebration of the day. What does it mean? Only this: That freedom is so divine a thing that men cannot give it honor enough until they drown all other sounds in the noisy chorus of American nationality. If you listen you will be conscious of a deeper harmony that tells how always under the tumults are the silent depths; that within the music there is another music playing the self-same air in tones so soft that only the soul can hear. Let us be content; for to-day and every day our eyes behold the glad results of the great war. Sorrow turns to joy when we think what is—and what might have been. We have not seen, and shall not see, every wrong made right. God always keeps some cause for future generations to serve. But what you did, soldiers of the Union, will make it easier for those who, in the days that are coming, shall try to lift up Truth, and put a crown upon her brow. The Fourth of July and the faith it stands for cannot perish in this age, nor while men shall hear how a loyal people went forth to battle in God's name, and won the day. And the soldiers com-

ing home, as they laid away their swords and muskets, felt in their blood the words which Lowell put into his great Ode :

‘What were our lives without thee?  
What all our lives to save thee?  
We reck not what we gave thee;  
We will not dare to doubt thee,  
But ask whatever else, and we will dare.’

“The night of life is not far off. We thought it would come more slowly, but even now its shadows are upon us. We have had our day. But while we live, the old fires will flash whenever danger appears, and the old habit come back when we hear the reveille. The soldier remains on guard. Always in his heart is the image of a Nation, great, noble, merciful, patient, free. He waits—and thinks.”

All Mr. Peck’s writings and speeches are characterized by a wide and exact knowledge of history and literature, by great sincerity and depth of emotion, by a large-hearted sympathy with the struggles of mankind, and a genuinely poetic insight into the beauties and mysteries of nature. His expression is pure and rhythmical.

Mr. Peck is a remarkably generous man. He bestows benefits with a prodigal hand. He is a man of means, but it has come about in spite of himself. Accumulation has never had more than his passing thought. To grow rich by saving, by lending, by bargaining and exacting is beyond him. He is not always a discriminating giver. A request for aid seems with him to constitute an obligation to give. That the applicant is dissipated, disreputable and unworthy constitutes no defense to the petition. But the worthy in need fare at least as well as the unworthy. Many are the old soldiers crushed by poverty, many are the struggling students, many are the unsuccessful or spendthrift attorneys who have had occasion to bless the “uncommercial” instincts of George R. Peck. He is not, however, given to charity in the

conventional sense of the term; he seems neither to demand nor expect gratitude. Not the anticipation of return here or hereafter, but an unconscious, spontaneous kindness and good fellowship, prompt his giving and his lending. He gives with the air of paying a debt, and the obligation involved is smoothed over and covered up. To help with advice, with sympathy, with encouragement and with good words here and there is his instinct. He is kind to the young man always, and especially to the young lawyer who has anything to commend him. He opens opportunities to him, commends his good work and heralds his achievements. He is generous to juniors associated with him, affording them opportunity to show their powers and permitting credit to fall where credit is due. He is independent and uncompromising in his judgments. He is no respecter of persons. He never bends the knee to the essentially small and mean, however much of momentary power the small and the mean may represent. His sympathy for the common man, especially for the unlucky, the fallen, the broken-down is quick and sincere. The following anecdote illustrates not only this, but his inexhaustible humor: Mr. Peck was once returning with a friend to his hotel in Boston, from a late public dinner, with a coterie of distinguished financiers, scholars and statesmen. It was, of course, a full dress affair, and Mr. Peck no doubt looked like a lord—or at least like one of the most prosperous and complacent of men. His mind, however, was full of business troubles and he doubtless felt, as he often does, how hollow is the rotund body of worldly success. Just as his hotel was in sight, a poor ragged devil put out a supplicating hand and asked for a quarter. Mr. Peck “gave him twain,” and then added a dollar or two with the suggestion that food and lodging, added to the probable liquid refreshment about to be enjoyed, would be very beneficial to health and longevity. The tramp was touched by Mr. Peck’s

generosity, and running after him said: "Sir, I can't help saying God bless you, and also that I am not what I seem." "That's all right," said Mr. Peck, "say nothing about it, but, neither am I."

If Mr. Peck is generous sometimes to the point of extravagance in the administration of his private affairs, it does not follow that he is so in the administration of the affairs of his clients. No lawyer was ever more careful of the interests intrusted to him than he. The Law Department of the Atchison, Topeka & Santa Fe Railroad Company is a model, not only of efficiency, but of rigid economy. On the subject of unnecessary expenses, of extravagant salaries, and of wastefulness in any direction, he is inflexible. He is liberal only with what is his own.

Mr. Peck has all that openness and frankness which goes with real strength. Brave, generous, strong, simple, impulsive, sympathetic, faithful to his friends, magnanimous to his enemies, large hearted and intensely human in every relation, ever young in his joys, his sorrows and his sympathies, he is a splendid specimen of the best type of the American lawyer and the American citizen.

At this writing, July 1891, Mr. Peck is the recipient of thousands of hearty congratulations on his last and undoubtedly greatest legal victory. It will be remembered that the Atchison, Topeka & Santa Fe Company purchased nearly the entire capital stock of the St. Louis & San Francisco Company. This purchase was assaulted furiously under a Missouri statute forbidding the purchase of one railway by another, under certain circumstances. The success of the assault would have ruined the entire Atchison Company. The case seemed a desperate one. Those best informed had the least hope. Mr. Peck made a magnificent fight, and won a complete victory. That he may continue to win to the end, is the wish of every man who knows him.





*L. R. Peters*

## SAMUEL RITTER PETERS.

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THE ancestors of this distinguished Kansan, on both sides were Germans. The family were among the earliest residents of Baltimore, and at one period in the history of the State of Maryland, were the proprietors of extensive tracts upon which portions of the great city are built. When Ohio was admitted into the Union as a State, the family removed to the Central portion of the new Commonwealth, and settled in what is now Fairfield county. In that county, on the 23d of March, 1816, the father of this sketch was born. The old gentleman still lives, residing on a farm in Pickaway county, not many miles removed from the scene of his birth, which he purchased some forty years ago. He is one of a family of twelve children, five of whom are still living, the youngest now seventy-five years of age. Lewis S. Peters married Margaret Ritter, the only daughter of Henry Ritter, who emigrated from Pennsylvania to Ohio in the early days of the settlement of the latter State, and was one of the first to locate in Pickaway county.

His son, Samuel Ritter Peters, whose middle name is that of his mother's, was born on the paternal farm in Walnut township, Pickaway county, on the 16th day of August, 1842. As was the fortune of hundreds of other boys of his era in that relatively new country, he worked on a farm during the Summers and attended the country district school until he had arrived at the age of seventeen, when he was sent to the University of Dela-

ware, Ohio, which was under the control of the Methodist church. He remained here for two years; when, imbued with the martial spirit awakened in the North by the hostile attitude of the South in its attempt to sever its connection with the Union, he enlisted on the 29th of October, 1861, in Company "E" of the Seventy-third Ohio Volunteer Infantry.

With his Regiment, the young soldier, not yet twenty years old, took a prominent part in all the principal engagements of the war, from the second battle of "Bull Run," up to, and including the famous victory of Gettysburgh, after which he, with his Regiment was transferred to the Western Army, joining it at Chattanooga. He made the wonderful "March to the Sea" under General Sherman, thence to Richmond, and witnessed the collapse of the Rebellion. His military record shows him to have been an excellent soldier, having successively passed through the various grades of private, non-commissioned officer, first and second lieutenants, and was mustered out as Captain of his Company.

At the close of the war he returned to his studies at the Wesleyan University, of Delaware, Ohio, but becoming dissatisfied with his surroundings left there and entered the Law Department of the celebrated University of Michigan, in October, 1865. He was graduated in March, 1867, and imbued with a desire to see something of the great West he determined to look up a location where he could begin the practice of his profession, his choice of all others from his earliest recollections.

Upon arriving in Memphis, in the northeast portion of Missouri, he was induced to settle there, and at once entered the practice. He soon acquired a very lucrative business which continued for five years, when in consequence of incipient lung trouble, in February, 1873, he sought a more congenial climate, locating in Kansas, fixing upon Marion, the county seat of Marion county.

In a little more than a year after his advent into the new State, his political career began, which has continued uninterruptedly until in the Summer of 1890, he declined further political honors, returning to his first love, the practice of the law. In the fall of 1874, he was elected to the State Senate for the District comprising the counties of Marion, Chase and Morris. At that particular juncture, in Kansas, the "Grange" was at the height of its political prestige, and as is the case of the Alliance to-day, it hated everything that savored of the name of "lawyer," but so great was the personal popularity of Mr. Peters that he defeated his opponent nominated by the "Grangers" and took his seat in January, 1875. On the 8th of the following March he was appointed Judge of the Ninth Judicial District to succeed the Honorable W. R. Brown, who had been elected to the Forty-fourth Congress, from the Third District. The very next day Judge Peters entered upon the duties his new position demanded. The vast territory over which he had jurisdiction was composed of eighteen organized counties in the Central and Southwestern portion of the State, which besides its immense area was a very trying region in which to hold court in consequence of the lawless element that roamed, regardless of the rights of individuals, over the immense prairies comprised in the great District. But Judge Peters was equal to the task, and administered the law fearlessly, in a short time bringing order out of chaos, which was rapidly assisted also by the influx of a magnificent immigration into the new country. The character of the litigation, as may well be imagined, among such a heterogeneous population, was as diversified as was the varied aspect physically of the region itself, but notwithstanding all this, Judge Peters was three times elected to the difficult position without opposition. As the Code of the State abolished all the old distinctions between the forms of law and equity, his Court had jur-

isdiction in all law and equity cases and also in crimes and misdemeanors; perhaps no Judge in the United States ever before had such a checkered career, so far as the diversity of suits is concerned, that were brought before him to decide. It was certainly a trying time and taxed not only his judicial brain, but took up all of his hours; when not on the Bench, he was occupied in chambers, or pouring over the decisions to be promulgated the next day, and notwithstanding this multifarious exercise of judicial function, Judge Peters was never reversed by the Supreme Court of the State in a single criminal case during his long term of service on the Bench.

For nearly eight years he continued to work earnestly and industriously in every part of his immense Judicial District, when in January, 1883, having at the previous November election been voted by the people to represent them in the Lower House of Congress, he resigned. This was at the time of the new apportionment for Representatives, and he was elected at large to the Forty-eighth Congress. His seat was contested, in consequence of the provision in the State constitution that sought to make a judge ineligible to any other position during the term for which he had been elected; but this provision, Judge Peters claimed, did not apply to any one who had been elected to Congress, as that body, under the Constitution of the United States, was made the sole judge of the eligibility and qualification of its members. In April, when the question came up in the House, he made an argument covering the legal questions involved, and the result was that he was declared to be entitled to his seat by an almost unanimous vote. Thus this vexed question was settled for all time to come; one which has been of serious disturbance to the political affairs of the State, and which had been the means of keeping out of the race for Congressional honors, more

than one aspirant on the local Bench, who were eminently qualified for the position, and were urged by hosts of adherents to accept a nomination. That Judge Peters was clearly in the right on this question, is now conceded by all lawyers. Judge Peters' opponent in this race for Congress was the notorious Sam Wood, who after a turbulent career in Kansas, at last met a tragic death at the hands of a western desperado. Judge Peters was elected successively to the Forty-ninth, Fiftieth and Fifty-first Congresses, with scarcely any opposition that might be considered worthy of the term, so popular was he in the vast geographical district he so ably represented. In the Forty-eighth Congress he served on the Committees on Commerce and Election on President and Vice-President; in the Forty-ninth and Fiftieth, on the Committees of Postoffices and Postroads; in the Fifty-first, on the Committees on Appropriations and Patents. His most notable speeches were on the Interstate Commerce law, and counting the Electoral Vote, which were delivered during the sessions of the Forty-eighth Congress. His speech in the Forty-ninth Congress, in defense of the homestead settler, was a masterpiece of the discussion of the rights of the settler on the Public Domain, for which he was a champion in every sense of the word. During his last term in Congress, he delivered able speeches upon such important matters, as the Tariff, the Pacific Mail Steamship Subsidy, and the relations of the Western Union Telegraph Company to the Land Grant Railroad Lines.

In January, 1890, he wrote a letter to his home newspaper, the *Newton Daily Republican*, declining to again become a candidate for further Congressional honors, in which he announced his intention to return to the practice of his profession. In the following July, he entered the firm of Ady & Nicholson, in Newton, and at once began a lucrative business. The style of the firm is

now, Ady, Peters & Nicholson, the senior member, Hon. Joseph W. Ady, being the United States District Attorney for Kansas.

Judge Peters was married on the 18th of April, 1867, to Miss Amelia C. Doan, of Circleville, Ohio, a lady of education, accomplishments and fine presence. Mrs. Peters was a universal favorite in Washington society, and her departure from the capital of the Nation was deeply regretted. They have one child, a son, Fletcher B. Peters, now twenty-two years of age, who has commenced the study of law, and promises to follow closely in the footsteps of his distinguished father.

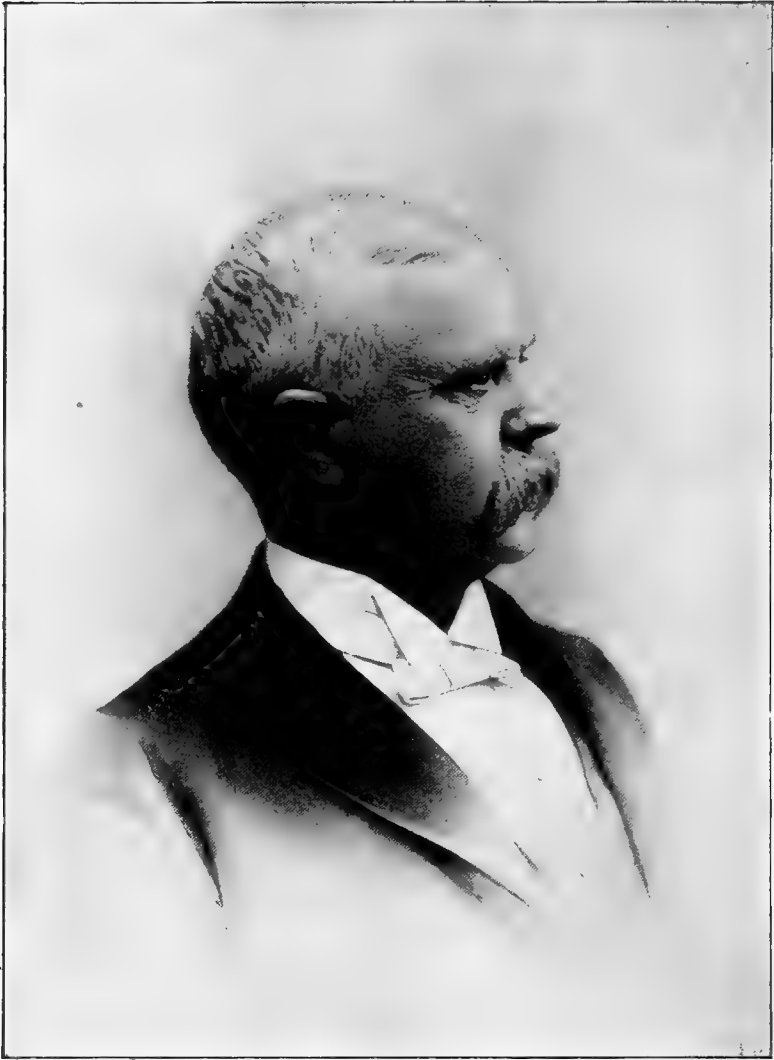
Judge Peters was Grand Commander of Knights Templar in Kansas, in 1882-3; was the first Post Commander of Judson Kilpatrick Post No. 36, of the G. A. R., of Newton. He is also a member of the Knights of Pythias and the Odd Fellows organizations.

He held the first term of court in Ness, Pratt, Stafford and Hodgeman counties in Kansas. His Congressional district was an empire in geographical area. It comprised thirty-seven counties, populated by a constituency of 277,000, as shown by the United States census of 1890, and in physical configuration an oblong or rectangle, whose sides were 200 and 100 miles respectively.

He retired voluntarily, and holds a warm place in the hearts of those whom he served so faithfully for so many years in the various positions of public trust. He was succeeded by the famous Jerry Simpson, who defeated the Republican nominee at the ensuing election. Simpson has since become a character of National interest, and bids fair to run a brilliant career.

Judge Peters is young yet, and if at any time he should decide to re-enter the arena of politics, there is no doubt he would be welcomed, and placed in any position he might seek.





*Jos F Phillips*

## JOHN FINIS PHILIPS.

BY WARREN WATSON.

THE ancient saying, "A prophet is not without honor save in his own country," meets with an exception in the career of Judge John F. Philips. It is quite true that the lives of most men must be examined from a distance, to form a just estimate of their worth or eminence; for no character can be admirable in all respects, and, viewed too near at hand, human nature is quite as likely to disclose trivial and even contemptible qualities as those worthy of admiration. In this respect Judge Philips has a unique personality. The closer he is approached the more worthy is he found of public honor and private regard, and those who know him best are the ones most ready to rate him highest as a citizen and public servant. It is for this reason that the aphorism quoted is inapplicable to him; for his native State has been the theatre where all of his distinctions have been gained. His father, John G. Philips, a Virginian of Irish extraction, was taken in early boyhood to Kentucky, and was reared in that State so famous for its "fair women and brave men." While still in his 'teens he enlisted as a soldier in the War of 1812, and accompanied the expedition under General Harrison, known as the "Tippecanoe Campaign." In 1817, having married Mary Copeland, in Mercer county, Kentucky, he came to the then Territory of Missouri with no other capital than his brave and devoted wife, and his own strong arms and dauntless heart. He settled near Thrall's Prairie, in Boone county, and founded the old homestead upon which he lived for

half a century, and where John F., the youngest of his children, was born December 31, 1834. Young John, like most all country lads, was first trained in the practical work of farm life, and acquired thus a sturdy frame and those habits of industry which have always distinguished him; and his attentive mind and natural refinement found means in this rustic environment to cultivate a love for nature's works, and he learned to appreciate the dignity of agriculture as a pursuit in life. To his mother, a strenuous believer in popular education, he was especially indebted for the liberal education bestowed upon him. At the close of the farming season the children were sent to the common schools, and as they grew older, to select, or private schools. In 1851-2 young John matriculated at the Missouri State University, where he remained till 1853, when he entered Center College, Kentucky, and graduated from this in April, 1855. Family selection had destined him for the legal profession, and on returning home, he entered at once upon the study of the law. Procuring a good selection of the principal text-books of the day, he read for the most part at home, surrounded by the serenity and solitude of country life. Here he read and re-read his books, making analyses of some, until 1856, at which time he entered the office of the noted General John B. Clarke, of Fayette, Missouri. In the course of the following year the omnivorous young student read most all of the text-books in his preceptor's office, and in 1857, was admitted to the Bar and "hung out his shingle" at Georgetown, Pettis county, Missouri. This year also was signalized by his marriage to his "college sweetheart," Miss Fleecie Batterton, of Danville, Kentucky. Two children are the fruit of this union, Emmett, a practicing lawyer of New York, and Hortense, still with her parents.

It was not long after his admission to the Bar

before his thorough equipment and aptness attracted popular attention, and at the outbreak of the war he was enjoying a most successful practice. His attractive oratory conferred upon him in 1860, young as he was, the position of assistant Presidential Elector, upon the Bell and Everett ticket. His speeches justified this mark of confidence and preferment. In 1861, he was nominated as a delegate from the Senatorial district to the State Convention called to consider the relations of the State to the Federal Union. He made the canvass as a pronounced Union man, and was elected by a large majority over such names as Judge William B. Napton and Frank T. Mitchell. Though he was, with one exception, the youngest member of that venerable and dignified body, and acted with becoming modesty, he took a conspicuous part in its proceedings, and his speeches on several important questions marked him as an orator of force, and a young man of thought and learning.

His course attracted the attention of Governor Gamble, of the State, who, having obtained permission from President Lincoln to organize ten regiments of special cavalry in the State for the Federal service, gave authority to Mr. Philips to organize one of these regiments. He accepted, recruited a Regiment, the Seventh Cavalry, and received a commission as Colonel, with Thomas T. Crittenden, afterward Governor of the State, as Lieutenant-Colonel, and Emory S. Foster, now of St. Louis, as first Major. This Regiment did most effective service in Missouri and Arkansas during the war, and was repeatedly recognized in field orders by Division Commanders for its gallantry and hard fighting. For meritorious and gallant conduct on the "Price Raid" into Missouri in 1864, Colonel Philips received the special commendation of Major-General Pleasanton, Division Commander, and was placed by General Rosecrans, Department Commander, in charge of the Central district

of Missouri, and was breveted Brigadier-General by Governor Willard P. Hall, but as he was not in sympathy with the extreme party then in the ascendant in the State Senate, he was not confirmed, solely on political grounds.

At the close of the war he returned to the practice of law at Sedalia, Missouri, and at once met with success. His practice so grew as to make a partnership with Judge Russell Hicks, the Nestor of the Bar of Central Missouri, a matter of overture, which was accepted. In the fall of 1866 the reputation and strength of this firm were augmented by the admission to the partnership of Honorable George G. Vest, now United States Senator from Missouri. Judge Hicks retired in 1869, and for nearly ten years thereafter, the firm of Philips & Vest was recognized as the leading law firm of Central Missouri. Those were flush times in litigation, growing out of the disorders and changed conditions incident to the war. New causes arose and new principles of law were in rapid development, and they were called to almost every class of litigation. Vest was a man of rare brilliance and learning, quick of perception, excelling in forensic oratory, and an analytical, discriminating mind, so that he was a power before court and jury. Philips was a closer student and a harder worker; he was self-possessed, alert, trusted by the courts for his accuracy and by the juries for his mastery of facts. Not so brilliant and captivating a speaker, nor so quick of perception as Vest, he was his equal in persuasive oratory and logical strength, and more formidable in preparation. Many persons who know and admire both men are unwilling to give Senator Vest the palm of superiority as an orator on any account, holding that his unstudied eloquence in no way surpasses Judge Philips' polished rhetoric and graceful periods. He always un-

derstood his cause. If Vest was the Napoleon of the Bar of Central Missouri, Philips was its Davout.

Their library was the most extensive outside of the large cities. Their briefs in the Missouri reports, ranging from the thirty-fifth to the seventy-seventh volume, attest the strength and character of their practice, and demonstrate their varied learning. Their practice extended to many counties and to the Federal and State Courts, covering every character of litigation. Mr. Philips made the first important argument before Judge Dillon in the United States Circuit Court, in the celebrated bond litigation in Missouri, and his name was as much associated with that "Battle of the Giants" as any lawyer in the State.

Though averse in his nature and tastes to the strife of political contests, his influence and force as a public speaker pressed him often into political service. He was a stalwart Unionist, but his conservative temperament and large sense of justice made him the champion of pacification and Constitutional liberty after the war. In 1868 he was sent as a delegate to the New York Presidential Convention which nominated Seymour and Blair. In the same year, while absent from home attending Court, he was, without his solicitation, nominated by the Democratic party for Congress. While under the "practical" operation of the registration law of the State, his defeat was a foregone conclusion, yet, with that chivalric spirit which honors him, he made the race, and his impassioned appeals never lost their influence on the people of the District.

In 1874 he was again nominated and elected to the Forty-fourth Congress, and again to the Forty-sixth Congress. In Congress, as in his practice as a lawyer, he was a worker, ever vigilant and ever in his place. He was not often on the floor, but when he spoke he had good attention. He was recognized as the lawyer in

politics, ready in debate and fully equipped. His eulogy on M. C. Kerr, late Speaker of the House, was a finished effort. In matter and eloquence it is among the best examples of memorial oratory.

His qualification for critical, earnest investigation, suggested his name to the Speaker as a suitable member of the special committee appointed by Congress to go to South Carolina to investigate the facts relative to the Tilden-Hayes election. His report thereon was conspicuous for its conciseness and its strength. His speech accompanying it was trenchant and forcible; and his speech in the Electoral College against Hoar of Massachusetts is a rare combination of invective and racy denunciation. His report as one of the visiting board of West Point Military Academy is illustrative of his thoroughness and versatility.

On returning from the Forty-sixth Congress he resumed the practice of law at Sedalia, where his place in the law firm during his absence had been filled by James B. Gantt, now a member of the State Supreme Court. Determined to separate himself from active politics, in the spring of 1882 he located at Kansas City, Missouri, where his legal attainments might find a wider field.

No incident of his professional career better illustrates his character as a man and his sense of the duties of the profession than one that occurred at this period. Through a mutual friend he was applied to by the noted bandit Frank James to undertake James' defense under several indictments for murder and robbery, on condition of his voluntary surrender to the Governor of the State. He was informed that James had no money to pay a fee. He had no other claims to this service than those of charity and humanity. Sensible of the public disfavor in which James was held, and of the criticism and odium which would attach to undertaking his defense, Judge Philips felt that the honor and chivalry of his profession de-

manded that he should ever hold his lance ready to see that the friendless and moneyless had a fair trial. With all the energy and courage of his nature, he threw himself into this cause. His tact, skill, learning and judgment, were all marshaled in this memorable trial. His speech on this occasion, which was preserved by a stenographer, in strength of argument, passionate eloquence, boldness of utterance, and invocation of the spirit of justice under Constitutional Government, had he never made other record, is sufficient to entitle him to a bright page in this biography of lawyers. While averse to the criminal practice, the disturbed state of society after the war almost compelled him to accept the defense of many criminal cases. Of twenty-one murder cases defended he lost only two, and those were convicted of lesser grades of manslaughter. Of five cases defended for other high felonies, he lost not one. In his later practice with the exception of Frank James' case he declined to take criminal causes.

He was not permitted to follow out the bent of his inclination to remain at the Bar. The Legislature of the State having provided for the appointment of three Supreme Court Commissioners to aid the Supreme Court, he was selected by the Judge of that Court as one of the Commissioners, in connection with Mr. Winslow, who soon thereafter died, and Judge Alexander Martin of Saint Louis, now Dean of the State University Law School. He entered upon the duties of this office in March, 1883.

His work as a member of this Commission was eminently satisfactory, and is a valuable contribution to the judicial literature of the State. The State Constitution in the meantime having been amended so as to provide for the creation of two Courts of Appeal, one at Saint Louis and one at Kansas City, with three judges for each, Judge Philips was appointed to the Kansas City

Court by the Governor. On the 1st of January, 1885, he resigned the Commissionership and entered upon the duties of the Kansas City Court of Appeals in March of that year, and was its presiding judge until June, 1888, when he was appointed Judge of the United States District Court for the Western District of Missouri to succeed Judge Krekel.

His career on the Supreme Court Commission and the Court of Appeals is characterized by his great capacity for work, the variety of his legal information, and the completeness of his opinions, which are marked by a strong individuality and the courage of his convictions. Right or wrong there is never any doubt as to what he holds. He never evades any important question or leaves anything undecided because it is troublesome and might be deferred, or cast upon some one else to determine. In the five years of his judicial labors on the Commission and the Court of Appeals he wrote and delivered four hundred and thirty-seven opinions.

On being transferred to the Federal Bench he was confronted with new questions of Federal jurisprudence and its system of practice, in a district whose docket, both criminal and civil, was crowded with litigation of a most important character. Within the short time he has occupied this Bench, as the *Federal Reporter* will attest, he has grappled with many grave Constitutional questions, principles of corporation, mining, real estate, and patent laws, and the construction of Federal criminal statutes, and has disposed of an amount of business with a promptness and satisfaction that seem almost marvelous. His decisions are noted for their clearness and force and the thoroughness with which every point is elucidated. Few Federal Judges have ever in so short a period acquired such wide renown in these respects. Even in those branches of the law which are ordinarily supposed to require a special training, such as patent

and mining law, Judge Philips' quick intelligence and thorough mental training enable him to handle the questions presented so able and understandingly that his views are generally recognized as sound and conclusive.

This quick adaptability of mind and his love for judicial work has led to his frequent designation by the Circuit Judge to hold Court for other Districts than his own. Wherever he has been sent, whether to Colorado, Kansas or elsewhere, he has never failed to create among strangers the same respect for his learning, ability and impartiality that he has inspired at home. His fame is no longer bounded by State lines but pervades the entire West.

Added to his professional and judicial labors and his political exploits, Judge Philips has wrought largely in the field of polite literature, and enjoys an enviable reputation as an orator. No man in the State has been more in requisition as a speaker on literary occasions. There is scarcely a literary college in the State where his services as commencement orator have not been employed. He has also addressed Female, Law and Medical Colleges. Most conspicuous among these efforts was his address before the triennial conclave of the *Phi Delta Theta* Society, which met at Nashville, Tennessee, a few years ago. As an after-dinner speaker his merits are best attested by the number of times he is conscripted into this service.

In religion he is a Presbyterian. In 1877 he was a delegate from the United States to the "Pan Presbyterian Convention" at Edinboro, Scotland. During that visit he made an extensive tour of the Continent of Europe, visiting the leading points of historical interest, and devoting much attention to galleries of art and statuary.

Judge Philips has received the degree of LL. D.

from the Missouri State University, Center College, Kentucky, and Central College, Missouri.

Judge Philips can reflect with laudable pride upon his achievements in the profession. His defense of the notorious Frank James was one of the efforts of his life, and under the circumstances surrounding the case, it was one of the greatest victories ever won in the Western forum.

Still in the prime of life, vigorous of mind and body, it is not too much to predict for him a full career, surpassed by no lawyer in the country.







*Hayden A. Hayden.*

## ROGER ATKINSON PRYOR.

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THIS representative Virginia lawyer was born on the 19th of July, 1828, near Petersburg, Dinwiddi county, Virginia. His father was the Reverend Theodorick Pryor, D. D., LL. D., than whom no man was more beloved and venerated. His mother was Lucy Atkinson, grand-daughter of "old Roger Atkinson of Mansfield," author of a famous letter describing George Washington, Patrick Henry and other celebrated Revolutionary patriots, which is quoted in all histories of that time. The Reverend Theodorick Pryor was great-grandson of Richard Bland, who was a patriot of the War of the Revolution and a member of the First Congress and of the Convention of 1776. Judge Pryor is also a lineal descendant of those families of Colonial times, from which sprung Thomas Jefferson, Chief Justice Marshall, John Randolph, of Roanoke, "Light Horse Harry Lee," Governor Randolph Pleasants and others of like eminence in the annals of the United States.

Judge Pryor, after the usual preliminaries, began his education at a classical school, and in 1846, at the age of seventeen, was graduated at Hampden-Sidney College, and two years later at the University of Virginia. He was then admitted to the Bar, and married before he had arrived at his majority. He did not immediately enter upon the practice of his profession, for having written some articles which attracted the attention of the editor of the *Washington Union*, he was

invited to accept a position on the editorial staff of that Journal, then the organ of the administration. While attached to the *Union* Mr. Pryor wrote a spirited article on the Crimean war, taking sides with Russia in that conflict. It attracted great attention and controversy, and brought him prominently to the notice of the President, Franklin Pierce, by whom, in 1855, he was sent on a special diplomatic mission to Greece to adjust a controversy growing out of the wrongful imprisonment of Josiah King, a Protestant Missionary. The question involved serious and prolonged correspondence, and Mr. Marsh, the American Minister to the Sublime Porte, who had at first undertaken its adjustment, abandoned the cause in disgust. Judge Pryor was more successful, and managed it with such diplomacy that he obtained for Mr. King, at the hands of the Greek Government, full redress and indemnity. On his return from abroad, Mr. Pryor was immediately offered the position of Minister to Persia, but the political situation of his own country was on the verge of an interesting crisis, and he declined to leave it again to accept a foreign mission. Journalism still had great charms for him, and he purchased a share of the *Richmond Examiner*, of which he became editor-in-chief, and led the fight against *Know-Nothingism* with all the vigor that had characterized his previous journalistic efforts.

In 1856, he attended the Convention which met at Montgomery, Alabama, for the purpose of discussing the promotion of Southern commercial interests, in which Honorable William L. Yancey proposed the revival of the "Slave Trade." This proposition Mr. Pryor ably opposed, and in the debate with its author, succeeded in defeating it.

In 1858, he was elected to Congress from John Randolph's old district, in Virginia, to fill a vacancy. At that period the public mind was wrought up to its utmost

tension, for events were crowding thickly toward the great war of Secession. He at once took an active part in the debates during the agitated sessions of 1859-60-61, and in his last speech in that body, made an eloquent protest against the settlement of the differences between the North and the South by the arbitrament of the sword. In those turbulent days the disinterestedness of his character and his ardent patriotism created for him warm friends among the partisans on both sides of the momentous question. While fully in accord with R. M. T. Hunter, Pierre Soule, Lawrence Keitt, Robert Toombs and L. Q. C. Lamar, he was the valued friend of the President, Lewis Cass, Stephen A. Douglas and other leading spirits of the North and West.

Mr. Pryor was re-elected to Congress in 1860, but did not take his seat, Virginia having in the meantime seceded from the Union. He was present at the inauguration of President Lincoln, and when Virginia elected her members to the Provisional Confederate Congress Mr. Pryor was chosen as one, and upon the establishment of the Confederate Government, was re-elected.

At the siege of Fort Sumter, General Beauregard appointed Mr. Pryor upon his staff, and his promotion to a Colonelcy soon followed. Later in the war he was breveted Brigadier-General, but in 1863, on account of differences between himself and Jefferson Davis, which then reached their culmination, he resigned his position of Brigadier-General, and re-entered the Confederate service as a private. In the autumn of 1864 he was taken prisoner by the Federal troops, and placed in confinement at Fort Lafayette. He was eventually released on parole, and remained in that military status until the close of the war.

In the autumn of 1865, Mr. Pryor resolved to remove to the City of New York and practice his profession. This was considered a bold move by some of his

friends, for a Confederate officer, with health broken by confinement and hardships, without a dollar or a friend in the alien city, and with a wife and seven children dependent upon him for support. He has been asked what impelled him "to the superhuman task of winning his bread in a hostile camp," and he answered "Despair!" But the camp did not long remain hostile. Mr. Pryor at once obtained employment in a favorite avocation, journalism, on the staff of the *Daily News*, which was then published in the morning, and the organ of the Democratic party in the city. Two courses were open to him at this critical juncture; to avail himself of the reactionary flood-tide of sympathy for the victims of "the lost cause;" become the hero of the dinner table and the club; or cloister himself in the sternest seclusion for the purpose of learning anew the profession of the law. He chose the latter; for twenty years he studied; turning not to the right or left for any other interest; asking no favors; receiving no help. Truly for him and his, neither "sun nor moon nor stars appeared for many days."

Mr. Pryor, since his removal to New York and entering the profession, has enjoyed a large practice to which he confined himself as assiduously as he has to anything he ever undertook, until his appointment as Judge of the Court of Common Pleas.

Mr. Pryor has been engaged as counsel in a great many very celebrated cases. Among the most important are the Tilton-Beecher, Morey-Letter, the Holland Murder, the Sprague Cases in Rhode Island, the Ames Impeachment, in Mississippi, and the first suit for damages ever brought against the Elevated Railroad for damages to adjoining property; the trial of O'Donnell in London for the murder of the Informer, Carey; the Hoyt Will Case; the Jaehne Boodle Case; the Chicago Anarchists, and the Sugar Trust Case.

Judge Pryor has been Visitor to the University of Virginia; member of the Baltimore Convention which nominated Franklin Pierce for the Presidency, in 1852; of the Saint Louis Convention which nominated Tilden, in 1876, and of the Convention which nominated Cleveland, in 1888. He is the author of many speeches and literary papers, some of which were contributed to the *New York Tribune*. His addresses before different colleges, societies and the Albany Law School, are all notable illustrations of learning, culture and original thought.

The eloquence of Roger A. Pryor is of a high order. Since the beginning of his career he has never been at a loss when an occasion required the exercise of oratory. In the forum he has been chiefly known as an advocate. His power in the trial of a cause before court or jury, has been recognized in a greater degree than his deep learning in the law. This wonderful faculty undoubtedly accelerated the prominence he attained at the Bar of the country, after having spent many years of his life in the field of journalism, in politics and other avocations.

Mr. Blaine, commenting upon the desire for decisive action on part of the Southern Confederacy, referring to Mr. Pryor, says: "Public meetings were held to urge the Government to action. At Charleston, in answer to a large crowd who come to pay him honor, Roger A. Pryor (whose attractive eloquence has since been used to better ends) told the people that only one thing was necessary to force Virginia into the Southern Confederacy: 'to strike a blow.' That done, he promised them that 'Virginia would secede in less than an hour by a Shrewsbury clock.'"

The early portion of his life was in a measure full of turbulence and controversy. His unexampled command of invective, and fearless denunciation of adversaries, led him into difficulty, which more than once

brought him to the field of honor. In later years he seems to have abandoned this characteristic, retaining only so much as becomes necessary to achieve his ends in the practice of his profession.

He carries with him into his new position as Judge of the Court of Common Pleas, the dignity of a true gentleman, ripe scholarship and the most unimpeachable integrity. He is noted for an almost phenomenal capacity for work, and for conscientious, unbiased judgment. His physical health is superb, and his mind as vigorous as ever. He is known to those who witness his private life to be singularly gifted in his sympathetic nature. He is quick to perceive a wrong done and chivalrous in redressing it. No man is perhaps better fitted, because of this characteristic, united with ripe experience and great learning, to be a wise and good judge.







*John Sherman*

# JOHN SHERMAN.

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BY GENERAL H. V. BOYNTON.

JOHN SHERMAN, United States Senator from Ohio, for many years was one of the most active, most respected, and most successful practitioners at the Bar in the Northern section of his State.

In addition to his own habits of close study, he had the advantage of careful training under relatives distinguished in the law, as well as in the affairs of their State, who took pride in the manifest ability of their pupil, and gave painstaking attention to its healthful development.

He is in every sense a self-made man. The problem of life became a grave matter for him in his early boyhood. His father died when he was six years old. Relatives cared for him during some years of school life, but at fourteen he was supporting himself as a rodman on the Muskingum River Improvement.

The Sherman family emigrated from England in 1634 and settled in the valley of the Connecticut. It was a large family and soon became prominent in public affairs. Its members were noted through many generations, both in the law and in all movements connected with the public defense, first in the Indian wars, and afterward in the Revolution. One of Mr. Sherman's ancestors, John by name, was a justice of the Associated County Court for forty-four years from 1684. He was afterward Town Clerk for twenty-five years, and was Judge of Probate for nine years. The representatives of the family were prompt and influential in all public steps leading to the War of the Revolution. From this period

forward Mr. Sherman's ancestors still continued prominent in the law, upon the Bench, and in support of the war. One was a Justice of the Associated County Court for twenty-five years, and Probate Clerk for the Judicial District in which he lived for thirty-seven years. They were also found occupying chief positions in the political life of their district, one having represented his native town in the General Assembly for sixty-five sessions. They were all men of mark, of strict integrity, of high personal character, and influential throughout the State. Charles Robert Sherman, the father of the Senator, was born in Norwalk, Connecticut, educated there for the law, and admitted to the Bar in 1810. A few months later, leaving his wife in Connecticut, he crossed the mountains to Ohio in search of a home. Arriving at Lancaster he concluded to settle there, and began the practice of the law. The following year, his wife followed him to the West, traveling on horseback with her infant child, the elder brother of Senator Sherman—afterward Judge Charles T. Sherman—strapped on a pillow before her saddle. She went with a party of emigrants from Connecticut, who were also seeking a home in the West. The father of the Senator rose rapidly in the practice of the law and soon became a man of prominence in his profession, and of great influence in the community. Thirteen years after his admission to the Bar he was elected by the Legislature of Ohio to the Supreme Bench of that State. In this new position he won, as he had at the Bar, the affection, confidence and high respect of his professional associates. While holding Court at Lebanon he died suddenly, before his wife could reach him. This left Mrs. Sherman a widow with eleven children; the eldest Charles T. Sherman, eighteen years of age, then at college, the youngest an infant of a few months. Her husband had accumulated very little property, and she had but a small inheritance from her father, but friends and

relatives came to her assistance. Mr. Thomas Ewing, a neighbor, adopted William Tecumseh—afterward General of our armies—and procured his appointment as a cadet at West Point.

John, now Senator Sherman, was then the eighth child and only six years old. A cousin, a merchant at Mount Vernon, took him to his home and gave him four years schooling. At the end of that time he returned home to Lancaster and for two years attended the Academy, somewhat noted in those days. It had been his intention to attend college, and at fourteen years he was sufficiently advanced to enter the sophomore class. But his mother was not able to incur college expenses, and not caring to depend longer on friends or relatives, John decided in spite of the fact that the gaining of a collegiate education had been one of his dreams and purposes for years, that it was his duty to his mother to make his way in the world for himself. So, at fourteen years of age, he accepted the position of junior rodman on the Muskingum River Improvement, and from that time ceased to be a charge upon his family. Even at this early age he was well versed in mathematics, and in all those elementary studies that fitted him for the position which he accepted. A year later, he was, at the age of fifteen, temporarily in charge of the engineering of this important work. For a year he discharged both the scientific and executive duties imposed upon him in connection with his extended work in a manner which was not only satisfactory to his superiors, but in such a way as to reflect great credit upon himself. But, at the end of a year, boy as he was, he was removed from his position because he was a Whig, the work having passed into the control of the opposition party. If anything was needed to ground him in the political sentiments which he had adopted, doubtless this experience accomplished it. The incident turned the whole current of his life. He re-

turned to Lancaster, and, after again deciding that he still could not incur the expense, or take the time for completing a college course he began the study of law. Thus, by this early act of political decapitation, the science of engineering lost an able and efficient student and practitioner, and the law, and politics and the country gained John Sherman.

At the age of seventeen he entered the law office of his brother Charles, at Mansfield, Ohio. This was then only a village of 1100 inhabitants, but it was the center of a county which advanced with a rapid and solid growth. Fortunately for Mr. Sherman, it was a section of strong Democratic majorities, and there were then no attractions for a Whig boy in politics. So he plodded along through the first years of dry study without having his attention diverted from the tasks before him. He gave his whole time and fast developing talents to his work. His brother, who was established in active practice, and his uncle, Jacob Parker, an old, well-educated lawyer, and an influential citizen, both took earnest interest in, and supervision of young Sherman's efforts. Under them he first became thoroughly grounded in the elements, and was next given opportunities in practice. The Bar of Northern Ohio was recognized as one of much ability. Those who were practitioners then rose to distinction on the Bench, and those who were students attained to many places of high rank in National affairs. Three of them namely, Honorable William B. Allison, Honorable Samuel J. Kirkwood, both of Iowa, and John Sherman, afterward met in the Senate of the United States.

He had completed his law studies at the age of twenty, but, under the law of the State, he was obliged to wait until he had attained his majority before he could be admitted to the Bar. He was then noted for his industry, for thoroughly correct habits, and for close

attention to his professional studies and duties. He was a dignified, self-contained and courteous youth, and popular with all who knew him, and, while full of life and energy he was not in the common acceptance of the term, a "hail fellow well met." Those solid and excellent traits have followed him through life, and, while he is one of the most genial and affable men in the public service, it has long been one of the myths of his personal history that he is cold and repellent.

He was admitted to the Bar on the 11th of May, 1844, at Springfield, Ohio, and was at once taken into partnership with his brother Charles, at Mansfield. From that time forward he was actively, successfully, and profitably employed in the practice of his profession throughout the Northern portion of the State. His associations were largely with men older than himself, many of whom had already reached high position. This intimacy, which he thoroughly improved, was of the greatest advantage and tended especially to rapid advancement in his profession. He soon secured high standing before all the courts where his practice led him, and his earnest, conversational methods of speech were always influential with the juries. The judges knew him as an attorney who studied his cases with great care, and who kept himself abreast of the legal literature of the day.

He was rapidly rising, and attaining leading position strictly within the fields of his profession, when he had his first taste of politics. He was sent in 1848 as a delegate to the National Whig Convention in Philadelphia. He was there elected as secretary, after a nomination in which his name was presented with the jocular remark that there was a young man there from the State of Ohio who lived in a district so intensely Democratic that he could never hope for an office unless that Convention gave him one. The Honorable John Defrees then arose and said that there was a young man from Indiana,

Schuyler Colfax by name, in exactly the same situation, and nominated him for assistant secretary. It speaks volumes for the earnest labor and the success which these young men wrought for themselves that not many years later one, as Vice-President of the United States, and the other as President *pro tempore* and one of its most distinguished members, should preside over the Senate of the United States. Mr. Sherman went back to Ohio and entered actively into the canvass of that State for Zachary Taylor. From that time his entry into politics may properly be dated.

He had become an intense Whig, and in the convention of that party in Ohio, in 1850, he took an active stand in favor of the nomination of General Scott as the next Whig candidate for President. He was a delegate to the Baltimore Convention of 1852, wherein Scott was nominated. Until the winter of 1853-4 Mr. Sherman had not conceived the idea of abandoning the law for politics. He had on one occasion looked to a nomination along the line of his profession as Attorney General of the State.

But in this year, the general excitement throughout the country over the repeal of the Missouri Compromise became very great. He took such earnest part in denouncing its repeal, that it directed the attention of the Whigs of his Congressional District to him as an available candidate for Congress. Up to that time, upon the subject of slavery, while feeling its wrong, and believing that it ought to be abolished, he still held that it was protected by the Constitution, and therefore ought not to be assailed. But the Southern proposition to repeal the Missouri Compromise, convinced him that the contest between Freedom and Slavery had come, and that it must go on to the end. He announced these positions as his views of the question that was then universally agitating the country: First, that in no

event should slavery derive any benefit from the repeal of the Missouri Compromise; and, secondly, that it should as rapidly as possible be abolished in all the Territories of the United States. Upon this platform he was nominated to Congress, and elected by 3,000 majority.

The body which nominated him was known as the Congressional Anti-Nebraska Convention, and it was composed of men who had been allied with the Democratic, Whig, and Free Soil parties. It was a fusion of these elements that led to his election. He was President of the first Ohio Republican State Convention, and there participated actively in the organization of the Republican party. In this new political army, destined to play so great a part in the history of the Republic, he held commanding position from the first.

Mr. Sherman took his seat as a member of the Thirty-fourth Congress in the House of Representatives in December, 1855. The six subsequent years preceding the outbreak of the war were periods of intense political battle. He not only maintained his prominence, but day by day became better known to the Nation, while his ability as a political leader in his State and Congress increased, and came to be recognized throughout the land. From the first, he participated freely in debate, and exhibited in the discussion of those vital questions which were attracting the attention of the country, his methods of patient study and careful investigation of every question with which he had to deal. He was a good speaker, earnest, emphatic, logical, and at times eloquent. He soon came to be known as a member equal to any occasion which the political heat and swirling excitements of those days brought about. Through these wild years he conducted himself with great dignity, disarming his bitterest political foes by his calm, philosophical bearing. His platform at this

early day in regard to slavery is worth reproducing. At the end of the fierce and protracted struggle attending the election of Speaker of the Thirty-fourth Congress, Mr. Sherman thus gave his reasons for voting for Mr. Banks, who had been opposed on the ground that he was a member of the American party :

“ I care not whether he is a member of the American party or not ; I have been informed that he is, and I believe that he is ; but I repeat, I care not to what party he belongs, I understand him to take this position—that the repeal of the Missouri Compromise was an act of great dishonor, and that under no circumstances whatever will he, if he have the power, allow the institution of human slavery to derive any benefit from that repeal. That is my position ! I have been a Whig but I will yield all party preferences, and will act in concert with men of all parties and opinions who will steadily aid in preserving our Western Territories for free labor ; and I say now that I never will vote for a man for Speaker of this House, unless he convinces me by his conduct and by his views that he never will, if he has the power to prevent it, allow the institution of slavery to derive any advantage from repealing the compromise of 1820.”

Immediately after the organization of Congress the struggle in Kansas between the Free Soil State men and Border Ruffians had begun. Congress appointed the Kansas Investigating Committee, and Mr. Sherman was named as a member. His connection with this investigation was, perhaps, a turning point in his political career, since it brought out his coolness, courage, and sagacity in dealing with a difficult subject, and allied him with the most progressive sentiment of the North, and its radical Republicanism. On arriving in Kansas, the Committee found a condition of disorder bordering constantly on riot. The State had been invaded by young men from all portions of the South, armed and

ready for violence. The Committee was threatened at every step. Lawrence was sacked while their investigation in the State was going on. Leavenworth was threatened by armed desperadoes, and only saved from destruction by the troops from the Fort near by. The Committee in order to preserve the testimony it had already taken was obliged to send it to Washington concealed in the dress of a lady.

This evidence disclosed to the country a condition of affairs far worse than civil war, and when the decided attitude of the Committee became known, it was for sometime a question whether its members would be allowed to leave the State alive. The Committee room was constantly crowded with armed men displaying bowie-knives and pistols, and every effort short of personal attack was resorted to, to overawe the Committee and turn it from its work. But those composing it were men of strength, and Mr. Sherman himself was as cool, and calculating, and courageous as was ever his distinguished brother upon any field of battle. In this investigation he was the leader in what was unquestionably the turning point in the campaign against the allied force of the South and the conservatism of the North, in their desperate effort to force the extension of slavery into the Territories.

From the day he returned from Kansas, throughout the administration of President Pierce, and the subsequent term of Mr. Buchanan, Mr. Sherman was a leader in Congress, and upon the stump, in all those discussions which were so rapidly consolidating the North against the aggression of the slave power. In addition to his prominent participation and leadership in the many grave questions which were thrust upon the country by the adherents of slavery, he began, and carried forward, a careful study of everything connected with the finances of the Government, and thus in his second

term in Congress he gained a recognized position in those fields of financial study, discussion and legislation, in which he is now regarded not only in this country but throughout Europe as a recognized authority.

At the close of his second Congressional term he was the foremost man in the House of Representatives. He had participated in the discussion of all questions of importance, and made known his position in regard to each and all of them without reserve. While he never attempted mere oratorical display, the earnestness and clearness of his speeches attracted constant attention, and made him one of the most prominent figures in the debates.

In the Thirty-sixth Congress he became Chairman of the Committee on Ways and Means. At that time this was a far more important committee than at present, since both appropriation bills and those relating to raising the revenue originated.

He had passed through the stormy and often desperate times, on the floor of the House without personal difficulty with those whom he so courageously faced, and so effectively opposed. He treated everyone with courtesy in debate, and never failed to exact it in return. A sharp rebuke which he once administered to a Southern member caused inquiries to be made by the friends of the latter as to Mr. Sherman's views about dueling. When approached upon the subject, he quietly said that while he was not a duelist, he should always be ready to defend himself if attacked. The friends of the offending member ascertained that this remark meant everything that it implied, and he was never afterward troubled on the floor.

He passed through the final session of Mr. Buchanan's administration with the same cool courage and independence of thought and action which had characterized him from the day when he first began his contest

against the repeal of the Missouri Compromise. While Southern members were busy in both Houses with their designs and plans for leaving the Government without support when the war which was hatching should actually begin, Mr. Sherman, as a leader, faced them at every point, and foiled them in many directions. While carefully watching over the appropriation bills he took means to provide for the future support of the Government, and it was largely due to his efforts that when Mr. Lincoln's administration assumed the reins of power, it was not left utterly without means for carrying on the Government.

When Mr. Chase was called from the Senate, by Mr. Lincoln, to the head of the Treasury Department, Mr. Sherman was elected as Senator from Ohio, and took his seat on the 23d of March, 1861, near the close of the special session, convened for the purpose of acting upon the nominations of President Lincoln. In less than a week after he took his seat in the body it had adjourned *sine die*, and the Southern Senators had hastened home to aid in organizing the Rebellion. A few weeks later Fort Sumter was fired on. Mr. Sherman on his way home read the first proclamation of President Lincoln calling for 75,000 troops. He went East with the first soldiers raised in Ohio, joined General Patterson at Harrisburg, and served on his staff without pay as an aid-de-camp until Congress convened in July, 1861. He then returned from Virginia, where he had been serving at the front, and took his seat in the Senate.

Upon the close of the extra session Mr. Sherman returned to Ohio, obtained authority from Governor Dennison to raise a brigade of troops, and gave himself diligently to that work. Before the 1st of December he had recruited, almost entirely at his own expense, two regiments of infantry, a squadron of cavalry, and a battery of artillery, in all 2,300 men. They were three-

year troops, composed mainly of farmers' sons, and commanded by officers of their own selection. This force served throughout the war under the name of the Sherman Brigade, and, with the exception of the cavalry, was kept together until the end. Its services were noted and brilliant from first to last.

Mr. Sherman himself came to Washington in December with the determination of resigning his seat as a Senator, and offering his services for the field. Both President Lincoln and Secretary Chase united in efforts to dissuade him from this purpose, arguing that his long service upon the Committee on Ways and Means, and his intimate acquaintance with the finances of the country, as well as his long continued prominence as a leader in the political questions underlying the war, made it a matter of duty with him not to deprive the country of the value of this experience, which, they argued, was, in his case, even more important to the effective prosecution of the war than any service in the field could possibly be. Looking back upon the history of his course in Congress, and the services which he performed there, the position taken by President Lincoln and Secretary Chase is seen to have been fully justified. The leaders in those home campaigns and battles were as essential to success as generalship in the field. Indeed, without the former the latter would have been useless. In the halls of Congress, his patriotic, prominent and influential support of the war and of Reconstruction constitute a chapter of his history open to all, and known to all, since it is still fresh in the minds of his fellow citizens.

With the advent of the Hayes' administration Mr. Sherman, long prominent in the Senate as Chairman of the Committee on Finance, became Secretary of the Treasury. The result proved that the country had found the Hamilton of our late war. If Mr. Sherman had never been in public life before; if his name had

not been connected, and his moulding influence felt in every important measure of National legislation for thirty years, his management of the finance through the resumption period would fix his rank among the ablest servants of the Republic. Mr. J. K. Upton, who was at the time Assistant Secretary, prepared a comprehensive statement of Mr. Sherman's great work. From that, it appears that when he took charge of the Treasury the credit of the country had so far advanced that large refunding operations promised to be practicable. There was also the imperative necessity of promptly making provisions for the redemption of the legal tender notes in coin on January 1, 1879, as required by law.

Operations under the existing contract with the syndicate for placing \$300,000,000 of the four and a half per cents were continued, but on April 5, 1877, Secretary Sherman informed that association that when the sales reached \$200,000,000, he proposed to withdraw the bonds from the market. By the 1st of July that amount was sold, of which \$15,000,000 were reserved for resumption. The balance was applied to refunding. The withdrawal of the bonds from the market created some surprise, but the credit of the country was improving, and on June 9th the Secretary concluded a contract for the sale of the four per cents, with a proviso that the loan should be open to public subscription for a period of one month. In that time there was sold over \$75,000,000, of which \$25,000,000 were reserved for resumption. The balance was applied to refunding, but unfortunate questions now arose checking further sales.

The refunding bonds were, by their authorizing act of July, 1870, made payable in coin of the then standard value. To that time, for many years, only gold had been coined for circulation as a full tender, though the authority for the fabrication of silver dollars was not abolished

until 1873. Silver had now so depreciated that if it could be coined at its former weight, enough bullion could be purchased for eighty-two cents to make a dollar coin, and a demand arose for legislation to restore the dollar to its former position, so that with these coins the Government could pay off these bonds when they became due, and also meet its other obligations. As purchasers were compelled to pay par in gold for the bonds, the prospect of having them paid at maturity in a coin depreciated twenty per centum was not inviting, and par in gold could no longer be obtained for the bonds. To check, if possible, this depreciation, Secretary Sherman, in a letter to a New York banker, said, "The essential element of *good faith* in preserving the equality in value between the coinage in which the country receives and in which it pays these bonds will be sacredly observed by the Government and the people of the United States, whatever may be the system of coinage which the general policy of the Nation may at any time adopt."

Though this letter could not bind the Government against future adverse legislation, it was well received at home and abroad, and strengthened the credit of the country.

Upon the assembling of Congress in October, there was developed much feeling against the scheme of resumption; and ever among those who favored the measure, many doubted whether a return of the specie payments at so early a day would be practicable; and those \$40,000,000 of coins had been accumulated in the Treasury with which to redeem the notes, the House of Representatives in November passed a bill to repeal the resumption act. It was amended in the Senate, but in its amended form failed to pass the House.

The opponents of resumption, however, had achieved a substantial victory, and in the depression of all public securities and the checking of refunding operations, they

had their reward. To aid the depression, a bill was passed in the House restoring the unlimited coinage of the silver dollar, and friends of the measure openly threatened that unless it became a law they would wipe out the entire public debt as with a sponge. The Senate, however, amended the bill so as to direct the Treasury to purchase not less than \$2,000,000 nor more than \$4,000,000 of silver bullion per month, and to coin the purchase into silver dollars, the Government to retain the difference between the bullion and nominal value of the coins, which at that time was about twenty cents on every dollar coined. Certificates for the coin were also authorized to be issued.

In January, 1878, Secretary Sherman having terminated all contracts for the sale of four per cents, gave notice that he would receive subscriptions from the public for the sale of these bonds. Through the spring the sales but little exceeded \$1,000,000 per month, and for most of the time the bonds could be purchased in the market for less than par. The prospect of refunding much of the debt into these bonds, or of accumulating a coin reserve for resumption by the sale of them seemed more distant than it did a year before, and gave heart to the opponents of the administration. On April 1st, Secretary Sherman, in an interview with the House Committee on Banking and Currency, the majority of which were not favorable to the policy of resumption, announced his determination to increase the coin reserve for resumption purposes at least \$50,000,000 by the sales of bonds if necessary, which amount, added to that already accumulated, would, he thought, make practicable and prudent the redemption of the notes as required by law.

The power of the Secretary to use the credit of the country to bring about resumption was practically unlimited, and the Secretary's purpose resolutely expressed

to use that power as far as necessary, greatly strengthened the friends of the measure, and in some degree disheartened its opponents, who, seeing they were powerless to thwart the plans of the Secretary, contented themselves as best they could by enacting a law forbidding the further retirement of legal tender notes, of which they were then outstanding \$346,681,015.

Four days after the interview, the Secretary began negotiations for the sale of four and a half per cents for resumptive purposes, and after a little delay contracted for the sale of \$50,000,000 at 101½, a rate somewhat above that of the market.

From that day forward there was little doubt of the success of resumption. Further efforts in Congress to repeal the authorizing act were abandoned, mainly upon the representations of Mr. Sherman, and the business of the country began to adjust itself to a specie basis.

Sales of four per cents for refunding were now rapidly made, reaching for the calendar year 1878, about \$100,000,000. Payment into the Treasury for the \$50,000,000 of four and a half per cents, were promptly made, as provided for in the contract, and every step believed to be necessary to maintain the coin reserve, was carefully taken. Arrangements were made whereby, to a certain extent, the Assistant Treasurer at New York became a member of the Clearing House Association, that body agreeing to accept in payment of balances due, checks and drafts of all kinds drawn by the Treasury or public officers. All checks for interest or called bonds, were necessarily made payable in coin, but the arrangement with the clearing house obviated any further necessity for maintaining a coin balance with which to meet their payment, for the payment of any other coin checks, and coin no longer being needed for such purposes, there was no longer any necessity for collecting duties on imports in coin, and instructions were consequently issued to all collectors of

customs to receive notes in payments of duties after January 1, 1879, which notes the government would redeem itself as necessary.

The preparations for resumption were so complete that on January 1, 1879, when resumption took effect, the Treasury held \$135,000,000 of coin applicable for the redemption of the notes. The thoroughness of the preparations avoided any further struggle. Now that coin could be had for the notes nobody wanted it.

Resumption being an accomplished fact, all the coin in the country became a part of the circulating medium, and that medium being now fixed in value, business rapidly revived, an extraordinary demand for labor arose, and a prosperity followed unprecedented in the history of the country.

The happy effect of resumption was at once felt upon the credit of the country, and in less than three months after resumption, the sales of four per cents for refunding, aggregated \$250,000,000. Taking advantage of the good demand for the bonds, Secretary Sherman, in March, 1879, announced that when the outstanding six per cents had been refunded, the sale of four per cents at par would be discontinued. As the sales approached the limit, the subscriptions poured in. On April 4th one subscription was received for \$40,000,000, a few hours later one for \$10,000,000, another for \$2,000,000, two more for \$25,000,000 each, and another for \$30,000,000, in all \$120,000,000, only about half of which was accepted and further sales ceased. There still remained \$195,000,000 of five per cent ten-forty bonds, and on April 16th, Secretary Sherman, to refund them, offered \$150,000,000 of four per cents at 101½, and \$45,000,000 of refunding certificates at par, in denominations of ten dollars, bearing interest at four per cent, and convertible into four per cent bonds. Before the close of the day, subscriptions for \$2,000,000 of the four per cents were received. The next

day came one for \$10,000,000, followed by others of small amount, until near the close of the day came one for the entire amount of four per cents and \$40,000,000 of the certificates. Besides the last mentioned subscription for the bonds there were received on bond subscriptions about \$194,000,000, of which about \$150,000,000 were accepted. The subscription of \$40,000,000 for the certificates was declined, and subsequently the certificates were sold in small amounts throughout the country. The entire ten-forty loan was at once called in, and in a few weeks refunding operations ceased, no more bonds being subject to call.

In little more than two years, there had been issued in place of five and six per cent bonds redeemed, \$95,000,000 of four and one-half per cent and \$710,000,000 of four per cent, making a saving in the annual interest charge of \$37,000,000. Notwithstanding so many new bonds were issued, their market value continued to appreciate, and at the close of the administration the bonds commanded such a premium that investors therein realized only about three per cent of their investment.

Whatever circumstances eventually may have favored resumption and refunding during this administration, no one could have foreseen or anticipated them, and if Secretary Sherman did not, like his predecessor Hamilton, "Touch the corpse of public credit and restore it to life," he took it, an outcast, wandering in a financial bog, dressed it like a queen, and sent it forth for the admiration of the world.

The increase of business also increased the public revenues, the receipts from duties on imports increasing from \$130,000,000 to \$198,000,000; internal revenue from \$110,000,000 to \$135,000,000; and the public debt was decreased \$220,000,000.

In January, 1881, before the expiration of Mr. Sherman's term as Secretary of the Treasury, and upon the

resignation of General Garfield, President-elect, Mr. Sherman was elected for the fourth time a member of the Senate, and again in 1886 was elected for the fifth time for a term which expires on March 4, 1893. He was President of the Senate from December 7, 1885 to February 26, 1887. No Senator had a stronger hold upon the State and of no other can it be said with greater truth that this arises from the universal agreement as to his pre-eminent fitness for the position and pride in the credit which he reflects on the State of Ohio.

Such, in mere outline, are the salient points in the career of the self-made American. When at the age of fourteen years he was supporting himself as a rodman he had for his contemplation and pattern a long line of distinguished ancestors, reaching backward two hundred years to the very birth of civilization in New England. These were constantly eminent in the law, in the church, in the forum of politics of those grand days of wholesome endeavor, and everywhere on the fields of the early wars with the Indians and the Mother country through which the Colonies fought their way, first to establish civilization, and then to Independence. On that long roll Senator Sherman, by a busy life of intense activities and notable results, has written his name among the worthiest. He has won assured position among the greatest which the ennobling struggle for National life and National Union, and which the great days of political and financial restoration which followed have produced. Friend and opponent alike, within his party and without it, do not differ in awarding him that rank.

He has always commanded respect and attention on the floors of Congress. He has ever been a positive character and force from the time he first entered the House of Representatives. There is no other man in Congressional life, or now active anywhere in political affairs, whose name is as prominently connected with

such a variety of important public measures as that of Mr. Sherman. In fact, it will be difficult, and probably impossible, to find in the records of Congress a single proposition of National concern on which he failed to express his views. There are few connection with which he does not appear as a moulding power.

At sixty-seven years of age he is in the vigorous possession of all his powers. His regular and temperate life have preserved his physical strength and endurance, and he is an example of that perfection of powers which result from a sound mind and healthy body.

He is six feet two inches tall, weighs about 180 pounds; has clear grey eyes, wears a full beard closely cut, and as to appetite, whether eating, drinking, sleeping or waking, business or amusement, no man ever controlled himself more perfectly than Senator Sherman.

Personally he is one of the most genial and affable men in public life. He has always been so. It is one of the baseless misrepresentations of politics that he is cold, or repellent in feelings or manner. He is dignified; he has never ceased to appreciate the responsibilities which attach to high public station, and to him the service of the country has always been a grave matter, and one demanding continuously the closest attention, and the most serious thought that could be bestowed upon it. But in his hours of relaxation, when among his family or friends, there is no kindlier or more attractive man to be met with among those in prominent positions.

His has also been a successful life in a pecuniary sense. But this, like his political success has been the result of a lifetime of careful and honorable work. He began as a boy to save his earnings and invest them. A half a century of industrious effort finds him, not with millions, as he is popularly rated, but still with a competence which is above the average of public men. But, it will also be seen that his application has been in

excess of the usual efforts. The heated political contests in which he has figured have at times, evolved charges against his integrity. As our campaigns are conducted, these would appear as a matter of course, but speaking from a close personal observation of twenty-five years, and from a position which, of necessity, becomes a receptacle of most that concerns public men both good and evil, it can be truthfully said of Mr. Sherman, that in all that time no evidence has been submitted that would stand legal tests, which, in the least degree, compromise his integrity.

At sixty-seven years of age he is recognized as one of the foremost men of the Nation. His services have been notable in every position which he has filled. His name will always be prominent among those who bore the brunt of the battle for Republicanism and Nationality throughout the struggle for these grand principles. He originated much of the vital legislation for the support and salvation of the Union, and has been closely identified with all of it. War legislation, Reconstruction laws, foreign relations, and our financial measures have all received the firm impress of his forming hand, while none have taken more active part, or exerted greater influence upon the multitudinous measures of ordinary legislation.

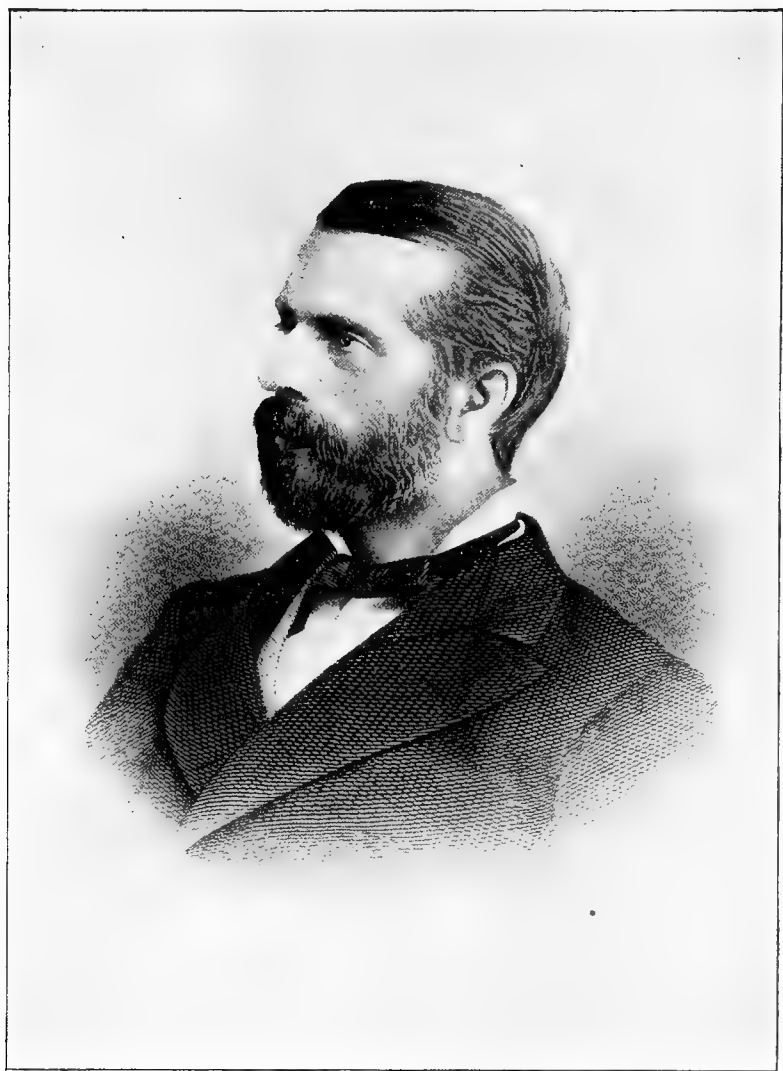
That Senator Sherman has left the impress of the statesman upon the tablets of the Nation's life in a very marked and indelible manner is indisputable. He is one among many whose work will be remembered long after he has passed beyond the struggle of existence, and its influence and importance be felt by the generations yet to be born. His fame as a master-mind in the Councils of State is not of that ephemeral nature which closes with the career of the individual, but the name of Sherman holds a conspicuous place in the archives of American history with those who have shed an imperishable luster upon the civilization of the Republic. His record during

the financial straits of the Government, is one of the most glorious monuments that can ever be raised to commemorate his services; more lasting than marble, more enduring than bronze.

History will write of him, that, in the grandest days of the Nation, he served his country with untiring energy; rose to distinction in every position which he occupied; that his private life was stainless, and his public service able and wholesome, and that among the great Captains of civil life who have waged the battles and won the renowned victories of peace, he deserves to rank, as his distinguished brother does, among the noted Captains of the War.







*Emory A. Clark.*

## EMERY ALEXANDER STORRS.

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THE celebrated Storrs family is of English origin, the first member of which emigrated to this country in 1683. He was named Samuel, settled in Connecticut, where, with twenty-two others, he received a charter for the organization of the town of Mansfield, ten years after his arrival. Samuel Storrs was one of the most conspicuous figures of pre-colonial days, an Indian fighter distinguished for his bravery in the constant battles with the Aborigines of New England. He was also a famous leader in the deliberations of local government, his name appearing very often in the yellow, musty documents of State during the period of settlement on the bleak Atlantic coast.

On these ancient archives appears frequently the Coat-of-Arms of the Storrs family, who were originally from Sutton, Nottinghamshire, England. The crest is an ermined banner bearing a lion with raised fore-leg, above which a mailed hand rests, grasping a mitred cross.

Both before and after Revolutionary times the name of Storrs is met in the annals of those days, always in a prominent manner. Since then the family, both in its direct and collateral branches, is noted for a long line of distinguished divines and orators.

One of the ancestors of the great lawyer, whose brief biography is here presented, fought at Bunker Hill with the rank of Colonel, and followed Washington thereafter through all the vicissitudes of the terrible struggle for American Independence.

On his father's side, Emery A. Storrs is descended from sturdy Pilgrim stock. His great-grandmother was a Denny, whose ancestors of that name were conspicuous in the history of the Puritans. Her son, Thomas D. Storrs, was the grandfather of Emery A., whose father, Alexander Storrs, at the age of nineteen, in 1827, removed with his parents from Worcester, New York, to Cattaraugus county in the same State. In 1831 he built a quiet, modest little house, the first one erected in the village of Hinsdale, which nestles so beautifully under the gentle hills in that portion of New York. The same year Mr. Storrs brought to the home he had prepared for her reception, his young wife, Miss Platt, for whose ancestors the town of Plattsburg is named. She was a remarkable woman; delicate in physique, but possessed of a brilliant mind. She loved the companionship of books, kept herself thoroughly conversant with the events of the time, was a remarkably fine singer, a fine conversationalist, possessing many attributes which appeared in the characteristics of her distinguished son. He often referred to the magnificence of his mother's voice whose lullaby in infancy made the first impression on his undeveloped mind. He said: "It is the first good thing of earth I recollect. It has reverberated in the air of thought many a time in the nights of my absence from her, and if ever I hear angels' voices I know whose shall be the leading contralto."

In 1833, on the 12th of August, her son, Emery A. Storrs was born. In the same room of that unpretentious little cottage his father had built two years before his birth, exactly fifty-two years and one month after his advent into its sacred premises, he died in the very prime of his popularity and fame.

His boyhood was not distinguished for its variation from the monotony which falls to the average American

whose parents are comfortably well off. They were not rich, neither was their son ground down by that poverty which has been the common lot of so many distinguished men. He had, probably, everything in reason that would conduce to his health and comfort, but he gave no evidence of a greater youthful brilliancy than thousands of others similarly situated at his age. His latent power was only developed by years of toil and hard study. The brilliancy of his life still further confirms the fact which the experience of every distinguished man's career has established without an instance of contradiction, that only through the persistency of serious intent, the surmounting of apparently insurmountable obstacles can the goal of ambition be reached. Inherently endowed with certain and prominent tastes, by the persistence of his nature he developed them into the great characteristics which made him famous, made him a passionate orator and an eminent lawyer.

He possessed a remarkable love for literature and letters, which was early developed. He was an editor at the youthful age of nine, and at twelve a splendid historian and apt scholar. A school newspaper which he conducted, called *The Casket*, foreshadows the brilliant thoughts of his maturer years. This amateur periodical also shows the versatility of his genius, crude though its composition was. It contained essays on various subjects, and he really attempted a love story full of fire and romance.

Mr. Storrs' education was begun and ended, so far as schools are concerned, at the Academy of his native village. He left the Academy at the age of thirteen, having mastered, apparently, the curriculum of the institution, to study law in his father's office. Here he was as devoted to reading everything that would promote his practical knowledge, as he was to that which would advance him in the profession. The number and character

of the works he studiously devoured were surprising, and no wonder he became such a scholar. He had a fashion of placing on the final leaf of everything he read a note stating the date upon which he had completed it. In the autumn of 1848 he entered the law office of Mr. B. Champlin in Cuba, New York, where he continued his marvelous system of reading, copied briefs and did the work which the care of the office demanded. This was the custom in those early times, from which now in the era of office-buildings, elevators and janitors, the modern embryo lawyer is happily exempt. Two years later young Storrs was observed by General Scroggs, of the firm of Austin & Scroggs, who was struck with the manner in which he was conducting the duties of the office. He entered into conversation with him and found the young man a remarkably intelligent youth. So pleased was the General with his aptitude, that after talking with Mr. Champlin upon the subject, asked him how he would like to go to Buffalo, where the firm of which the General was a member, was established. Mr. Storrs replied: "The country mouse envied the city mouse, and I want to go, if only for a time."

It resulted that Mr. Storrs was at once transferred from Cuba to Buffalo, where he soon made his industrious habits and talents felt. General Scroggs states that his ability was so great that to him was assigned the duty of looking up every new legal question, and outlining the briefs of the firm. Only a few months elapsed before he was promoted to the position of managing clerk, in which capacity he prepared all of the cases presented to the firm.

In the law school, at this time, he was the youngest of the class, but was regarded as a most remarkably talented man, the acknowledged social leader of them all. One of his fellow students, in speaking of him as he was at that time, says: "His determination was not to be

outdone by any human being, old or young." His remarkable love for the law, in the practice of which before the Moot Courts, he evinced such wonderful powers of reasoning that not only the students, but the Bar and the judges in attendance were attracted toward him.

On the 5th of September, 1854, Mr. Storrs was admitted to the practice, in Batavia, New York, and at once entered the new firm of Austin, Storrs & Austin, at Buffalo. Two days later he was married to Miss Caroline P. Mead, a niece of William Mead, who was also her guardian. Both of these, at first, repulsed all advances on the part of the would-be lover, who had attained but nineteen years. He plead his own case so earnestly, however, that in a very short time he had won them over completely. Any thought of marriage was forbidden, under the terms of the truce, until he should become an attorney. When that was an accomplished fact, as has been shown, he allowed but two days to elapse, after he had received his parchment, before the ceremony was performed.

Almost immediately Mr. Storrs commenced to write for the daily press of Buffalo as a recreation from the cares of business. These contributions were of a versatile character, including not only purely literary articles and reviews, particularly of the magazines, but political essays as well.

His first political speech was delivered in Cattaraugus county, New York, in 1858, in which he reviewed the troubles in Kansas, then asking admission as a State under President Buchanan's administration. In this remarkable address he evinced much of that wonderful depth of thought, clearness of logic and knowledge of facts which characterized his maturer efforts.

Admitted to the Bar of Buffalo, Mr. Storrs began to rise rapidly. His oratory was already making an impression upon the public, and socially he was an acknowl-

edged pet. Then commenced the great trouble which followed him through life. He never could appreciate the value of money, which led him into extravagances he could not afford. Thus afflicted, he moved out of a most comfortable house into an elegant mansion he had purchased, and the natural result followed quickly. Collapse came; insolvency was his portion, so that he was obliged to "shake the dust" of Buffalo from his feet and remove elsewhere. He selected New York City, where, however, his ruling passion clung to him. Continuing his extravagant habits, and living far beyond his income, he was compelled to leave New York as he had left Buffalo. This was a very critical time in the brilliant young attorney's life, and there are some things which cast a shadow over his name, caused by the temptations that allured him to continue his extravagance. His fall was swift, humiliating, but salutary in its after effects. Unwise speculation in real estate brought its usual results, but he is not so much to be blamed, perhaps, as the disjointed times in which these matters occurred.

After leaving the City of New York, he returned to his family at his birthplace, but remained only two weeks when Chicago, with its bustle and business, attracted his attention. Arriving there, he entered into partnership with his brother-in-law, but Mr. Storrs dissolved the firm by retiring after a period of six months.

The very soul of integrity from boyhood, it was now a severe struggle, handicapped as he was by the old obligations left in the places from whence he had fled. They hovered like a nightmare over him for many years, but he extinguished all in time, though it required the best period of his life to effect it. For his actions during these days Mr. Storrs was censured by the unthinking and the unknowing who were not acquainted with his soul. In one of his letters to a sister at this time, he poured out his feelings thus: "I am tired enough some-

times to die, but I am becoming calloused to uncertain criticism based on a mere lack of knowing."

It was not long before his genius and legal talents began to be recognized in Chicago, and, though he had all the professional business to which he could well attend, he again took up his pen to write for the great dailies of the Western Metropolis. His work in this direction was of an editorial character; of course generally of a political nature, and bearing upon the important questions growing out of the National struggle at arms, then at its height. Extracts from a witty article which appeared at this time, styled "A Chapter on Boarding Houses," is here presented to show the humorous side of his nature:

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"For the purpose of a more accurate understanding of the subject, we would divide boarding-houses into two classes, viz: The private boarding-house, and the public boarding-house. The difference between the two may be said to consist in the fact that the former is usually built as a private residence, and continues to be occupied as such by the person furnishing the food, or the food and lodging; while the latter partakes more of the character of a hotel, boards more people than the private boarding-house, and differs from a hotel more particularly in the fact that its guests are permanent occupants, or comparatively so.

• "Private boarding-houses are at least of three distinct classes: First, the 'genteel' private boarding-house. Second, the private boarding-house 'just five minutes walk from the postoffice.' Third, the private boarding-house where a gentleman and his wife or two single gentlemen will be taken, and positively no others, references given and required.

"The gentility of the 'genteel' private boarding house is not to be found usually in the house, or its loca-

tion, nor in the food or lodging furnished, nor in any of its appointments or surroundings, but in the persons who keep it, and in the compensation required by them. The industrious searcher after a boarding-house may know when he has found a genteel private boarding-house for himself and family by observing the presence or absence of the following symptoms :

“ He will usually find, as he stands upon the threshold of the house he is about to enter, an indented *gutta-percha* foot-mat, looking, so far as the indentations are concerned, very much like an overdone and over-sized waffle ; the bell-knob will be of brass ; there will usually be a doorplate. When he rings the bell, he will find that the bell machinery is somewhat deranged, and after waiting some time, a servant will cautiously open the door, and as cautiously permit him to enter. He will inquire whether boarders are taken there. The answer will be evasive, and unsatisfactory, but he will be requested to take a seat in the parlor until Madame is consulted. As the servant disappears in the distance, through the door which she opens to enter her peculiar sphere will come the poignant odors of boiled pork and cabbage. He enters the parlor ; finds a piano, and if it be in the winter season, a fire burning with an apparent doubt as to whether it has a right to burn. The piano will be opened and on the rack he will observe ‘ Then You’ll Remember Me,’ ‘ False one I love the still,’ and the latest two-shilling war-ballad. Over the piano he will observe the engraving, in a gilt frame, of ‘ Shakespeare and his Contemporaries.’ Over the mantel will be hung, also in gilt frame, ‘ The Village Blasksmith.’ On the centre-table he will observe a photographic album and suspended from the chandelier a basket of beads, curiously wrought. He will seat himself in a rocking chair, covered all over with a tidy, and while doing so will have occasion to notice in the back parlor a genteel looking young lady, en-

gaged in working a green dog, with red ears on a pink ground. All those things he will have plenty of time to discover before Madame arrives. He will wait long and anxiously, and finally will hear the rustling of silks through the hall, and Madame, a lady of mature years in an excellent state of preservation and elegantly clad, will enter. He will begin to think he has mistaken the place. He will tremblingly and doubtingly make known his business. A long pause will ensue, during which Madame will examine him critically. She will at length ask, who informed him that she kept a boarding-house. That question answered, she will respond that she does not keep a boarding-house, never did, and will not until she is obliged to. The gentleman apologizes for his mistake and proceeds to take his departure, when Madame adds that although she does not keep a boarding-house, still there are stopping with her, for company's sake, two or three very pleasant families and acquaintances of hers; that she had one delightful room unoccupied, which, under the circumstances, in view of the difficulty of getting good boarding places, she might be induced to let to a real gentleman with a small family, and, for the purpose of accommodating, she would let to him. The gentleman, delighted beyond measure at his good fortune, examines the room, and, although it is rather small, and rather dark, and rather inconvenient of access, and rather too scantily furnished; in view of the very fine society and many home comforts which his family can have, the parlors always being open, he concludes to take it at a price somewhat higher than he would pay at the Sherman or the Tremont.

“He takes his departure with many bows and smiles, and hastens to the wife of his bosom, to advise her of her extreme good fortune. She maintains a provoking reticence, simply inquiring the age of the hostess, whether she has any daughters, whether there are closets

or a wardrobe, and a place for storing trunks, and prepares to leave. Upon their arrival, they find no closets, no wardrobe, no place for storing trunks; the stove smokes; the door won't shut; the windows won't open; but finally they are settled. He hurries to dinner, and Madame, after introducing them to a large number of other boarders, informs him that they are all very fond of boiled dinners, and they have one that day. She again informs him that her boarders are all dyspeptic and eat no pastry, but that, if he desires it, she *has* pastry, which she will get for him especially. At the end of the week he finds many extras on his board bill, for fixing stoves and windows, and for closet and store room. His further experience shows him that the meat is mostly *cold shoulder*, and the gentility, an anxious spirit of investigation on the part of the hostess and the other boarders into his business, its present profits, and its future prospects. He comes home to find his wife wretched and in tears. The lady of the house has pronounced her diamonds paste, her gem of a watch pinchbeck, her gold oroides, and her new silk dress second-hand. The servant girls plunder his wife's wardrobe; Madame and her daughter borrow her furs; and finally, Madame would like to know whether he couldn't as well as not advance two or three month's board. It is the last straw that breaks the camel's back. He proposes to leave, and goes again up and down streets and avenues vowing that he will never again enter a 'genteel' private boarding house.

"The boarding house 'five minutes from the post-office,' he finds to be either in the vicinity of the Bull's Head, Lake View or Hyde Park. The boarding house 'where positively no other boarders are taken,' is thronged and overrun with clerks, musicians, soldiers and dancing masters. \* \* \* \*"

Mr. Storrs legal business was very large, and his

cases many; one, that of Erastus W. Hazard, against the Chicago, Burlington & Quincy Railroad Company, was remarkable for the high standing of the complainant and the length of time it dragged through the courts. Mr. Hazard was a well-known lawyer of Illinois, and the injury he sustained of a very dangerous character, making him permanently lame.

Mr. Hazard took passage on a freight train; he paid the customary fare, and when nearing Galesburgh, inquired of the conductor whether there would be supper at the station. He was informed there would not be, as it would be too late, but that at the regular station there would probably, and when the train slowed up he could get off with safety, as that was the custom with business men, before they pulled into the depot. Mr. Hazard then went to the front of the caboose, and was told by the conductor he could better get off at the rear end. He went to the other end of the car, but while at the door which he was holding with one hand, the train gave a tremendous jerk, and Mr. Hazard was thrown off the platform, dislocating his ankle, fracturing it, resulting in complete loss of power in his leg.

The first trial before a jury in the Circuit Court, gave him \$11,000 from which decision the Railroad Company appealed to the Supreme Court of the State, and the verdict was set aside on the ground of excessive damages. At this stage of the case Mr. Storrs appeared for the complainant, the result was a new trial, in which the jury gave a verdict for \$15,000. Mr. Storrs review of the opinion given by the Supreme Bench was an exhaustive document, requiring 156 closely printed pages. To cite the suits in which Mr. Storrs was of counsel would require a volume of itself. The student is, therefore, referred to the Reports of the State Courts of Illinois, most interesting reading and beneficial to any lawyer.

As an orator, particularly on the stump, Mr. Storrs

stood at the head of America's great political speakers. Once, when asked how he first commenced to speak on the rostrum, he answered: "I filled myself up and then there was a flow."

In the preparation of his wonderful legal arguments before a jury, it was his custom to spend the entire night while the trial was in progress studying all the evidence that had been presented during the day, and his rule as stated by himself: "I make it a rule of my lawyer's life, to know all—both law and fact, that can possibly be advanced for and against." So great a lawyer was he that scarcely any western case of importance can be found in the records without his name on one side or the other. When only twenty-four years of age he stood as prominently before the Bar of New York, as any young man in the State.

Mr. Storrs, both on the stump and in the legal forum, was overflowing with wit. If all that he has said in the realm of humor could be gathered it would fill a large volume. A few of his hits in this direction are selected at random from his public speeches and arguments before a jury, and they, of course, had an application, at the time, to his subject:

"A hunter on the plains was sent out at night to shoot a buffalo for his friends. He shot the buffalo, and just barely hit him, and maddened him. The old beast started for the hunter, who was on horseback, and went vigorously for him. The dust flew in large quantities, and the hunter made for the camp immediately. They arrived in sight of it, and he, in order to keep up his reputation for courage, took off his hat and gallantly swung it, and hardly able to keep away from the enraged animal, shouted, 'Here we come! You sent me after a buffalo, and I will bring it to you alive!'"

Of Sam Casey's calf: "Sam said that he had to

pull his ears off to get him to suck, and then to pull his tail off to get him to quit."

In the closing argument of a certain case in which Mr. Storrs was of counsel, the lawyers got into a squabble as to whether some documents had been regularly put in evidence. Mr. Smith contended that they had not, and Mr. Storrs, on the other side, was equally determined and declared that they had. At this, Mr. Smith, assuming a position of great dignity, exclaimed: "Well, if my word is not as good as that of Mr. Storrs any day, I propose to leave the county." Mr. Storrs, in his quiet, deliberate manner, at once responded: "Good bye, Smith;" then, looking at the jury, said: "Gentlemen, friend Smith is going to leave the county."

In one of his political speeches he referred to some declaration of the opposition to the man who had been attending a popular lecture on astronomy, the principal subject of which was that the world moved, referring to Galileo's suppressed declaration in relation to the fact. The gentleman, after the lecture, stopped at many a saloon on his way home, consequently got pretty well filled up, so that the ground seemed to heave as he essayed to walk. At last in despair he caught his arm around a friendly lamp-post, and as he embraced it, said: "By golly! old Galileo was right, the world does move."

In a lecture before the class of medical students at the sixth Commencement of the Chicago Homeopathic College, he said: "Next year a new college, to be known as the Chicago College of Physicians and Surgeons will be completed. It is to be directly opposite this great hospital, and there will be gathered around it four medical colleges. This, I am assured, will make the City of Chicago the greatest medical centre in the world. There is something eminently fitting and proper, and natural, that these colleges should gather around a hospital. It follows other lines of develop-

ment. The pork-packing establishments gather around the Stock Yards."

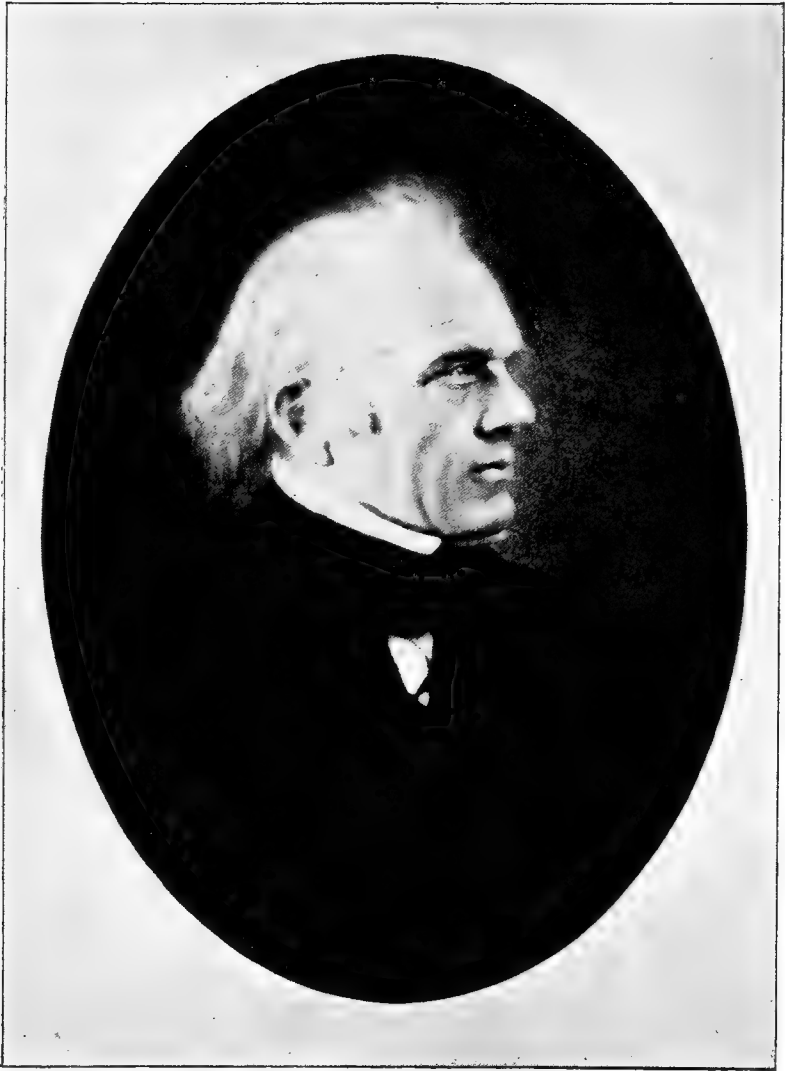
Mr. Storrs was never very friendly to President Hayes. At Garfield's funeral he thus describes him: "There stood R. B. Hayes, clad in a long linen duster, with a straw hat on the back of his head, holding in his right hand a yellow, worsted bag, with the letters R. B. H. worked in purple by Lucy; and no one spoke to him except a policeman, and he told him to keep off the grass."

In a celebrated case, when the question of a trial by jury was being discussed, the opposing counsel remarked: "How would it do to try it in Freedom Township, the town of six nations over by Manchester, where the Germans are all Democrats?" "German Democrats!" replied Mr. Storrs, "a jury of that description wouldn't know whether the Savior was crucified on Calvary or shot at Bunker Hill."

It is well known that the dinner which Mr. Storrs gave to Lord Coleridge was to have been levied upon. One of Mr. Storrs's intimate friends chaffing him about it, received for a reply: "I have the honor of giving the first Lord's supper the world ever saw which was attended by a representative of the Government."

Mr. Storrs will go down on the pages of legal history as one of the greatest advocates and orators the United States has ever produced. His life is a study for lawyers everywhere. His devotion to the profession, and his indefatigable methods of work are brilliant examples for the student, while his extravagances are to be regarded as beacon lights showing the rocks to be avoided. He was a great man in every sense, and it will be a long time before his superior will grace the Bar of his adopted State.





*Joseph W. Story*

## JOSEPH STORY.

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THIS eminent jurist takes rank in the United States in line of the profession of law, with Marshall and Kent. His grandfather and father were men of reputation at the time in which they lived. The latter, a celebrated physician of Boston, Massachusetts, removed to Marblehead in the same State in 1770, where nine years later, on the 18th day of September, 1779, his distinguished son Joseph, the subject of this sketch, was born. The father of the jurist was an ardent patriot. He was one of the famous "Tea-party" in Boston harbor, and fought with Warren at Bunker Hill, and with Washington in New Jersey. He was a widower with seven children when he married Miss Mehitable Pedrich, the mother of Joseph, who was the eldest child of this last marriage. She was a woman of spirit, dignity, and sustained herself nobly during the dark period of the American Revolution.

Marblehead was a seaport town, and Joseph associated in his boyhood days with the rough but good-hearted men of the little place, who followed the sea. He listened to the superstitions and wild tales of adventure told around the bright hearth-stones of the villagers and in the shops of the quaint town. There, too, he learned the rudiments of his education in the simple schools that the place afforded. When only fifteen, he determined to present himself at Harvard University for admission in the Freshman class. He was well prepared with sufficient Greek and Latin to pass, but was con-

fronted by the information that he must possess himself of a knowledge of the exercises of the class he desired to join, for the preceding six months, before he could be admitted. He had a month and a half in which to make himself familiar with all that the class had gone through for the half year before, but he did not despair, making up his mind on the spot that he would make the attempt, although the task seemed almost insurmountable. To add to his dilemma, his teacher in the classics was but a poor scholar at best; not the person to coach him with any degree of skill, yet he was the only staff he had to lean upon, so he set himself to work with those powers of industry he possessed, which were remarkable characteristics of his whole life. Before the term of his self-imposed six weeks had fairly ended, he had performed what to anyone else, perhaps, would have been a good half year's labor. In that short time he had gone through Sallust, the Odes of Horace, two books of Livy, three books of the Anabasis and two of the Illiad, besides studies in logic, rhetoric, and other minor subjects, which the class had studied for the six months preceding the vacation. Of course he passed his examination, and was admitted. Among his classmates was the afterward celebrated William Ellery Channing, the eminent divine. It was then, during his college life, that young Story abandoned his belief in the tenets of Calvinism, in which he had been reared at his home in Marblehead, adopting in their stead the less severe doctrine of Unitarianism.

He was graduated in 1798, Channing ranking first, he second, in the honors of commencement. After his college course was ended, he had eaten of all the meats, without the least feeling of satiety or weariness. He returned to Marblehead, and commenced to read law in the office of Mr. Samuel Sewall, who subsequently became Chief Justice of the State. Young Story, during his

hours of leisure in college, had devoted himself to wooing the muse of poetry, and when he began to wrestle with the harsh prose of law books of those days, the change was a shock to his rhythmical mind. Of that trying time he thus writes: "I shall never forget the time, when having read through 'Blackstone's Commenataries,' Mr. Sewall, on his departure for Washington, directed me to read 'Coke on Littleton,' as the appropriate succeeding study. It was a very large folio, with Hargrave and Butler's notes, which I was required to read also. Soon after his departure, I took it up, and after trying it day after day with very little success, I sat myself down and wept bitterly. My tears dropped upon the book and stained the pages. It was but a momentary irresolution. I went on, and began at last to see daylight, ay, and to feel that I could comprehend and reason upon the text and comments. When I had completed the reading of this formidable work, I felt that I breathed a purer air, and that I had acquired a new power. The critical period was passed; I no longer hesitated. I pressed on to the severe study of special pleading, and by repeated perusals of 'Saunder's Reports,' acquired such a decided relish for this branch of my profession that it became for several years afterward my favorite pursuit."

When General Washington died, Mr. Story was invited to deliver a eulogy upon that greatest of Americans, for Marblehead had begun already to recognize his powers. For the production of a young man who had just attained his majority, it was well received, printed and distributed, but when the callow youth became a great judge and a great orator, he looked back upon that production of his fledgling days as "poor and in bad taste."

The following year he removed to Salem, Mr. Sewall, his preceptor, having been appointed Chief Justice of

Massachusetts, where he entered the office of Mr. Samuel Putnam to finish his course of reading, and, in the summer of 1801, was admitted to the Bar. In the old town of Salem, famous for its traditions, and infamous for the cruel burning of its alleged witches, the young lawyer commenced the practice of the profession he was destined to grace so wonderfully by his talents. His religion was against him, and his anti-federal proclivities were not, under ordinary circumstances, of benefit to one among the staid and straight-laced puritan stock of the town; but his geniality overcame any possible social ostracism, and his talents soon brought him clients. Judge Sewall, the Chief Justice of the State, who was a strong Fédéralist, much opposed to the Republican tendencies of his favorite pupil; had this to say of his former student: "It is in vain to attempt to put him down. He will rise, and I defy the whole Bar and Bench to prevent it." He was offered the position of Naval officer of the port of Salem, but declined it, assigning as a reason his "reverence for his profession, as employing the noblest faculties of the human mind, and systemizing its boldest operations," stating further, "that no Republican should accept a sinecure."

When he was twenty-five, he delivered a Fourth of July oration, and published a poem. He had been courting the Muse for a long time while preparing the "Power of Solitude," which was the title of his composition, but his maturer years condemned this effusion of his youth, as it had his eulogy on Washington, delivered some time previously. He so utterly condemned his poem that he purchased every copy he could lay his hands on, and then destroyed them; a few, however, escaped his vigilance, and may be found in some libraries in the country. He published about the same time of the appearance of his poem, his first legal work, "A Selection of Pleadings in Civil Actions." This was

destined to a worthier fate than his other productions, at least it escaped the flames ignited by the severe criticism of his verses.

This year, too, he married, but death snatched his bride from him early the next summer. Then came the loss of his revered father, which tried the force of his nature, but instead of breaking down under his double trial, he went to work the harder to find that consolation which rest can never bring. Now he engaged in the most important cases in the Commonwealth, committing himself to an appalling course of study.

In 1805, he entered the realm of politics, by accepting a nomination to the Legislature, to which body he was elected. He at once took a leading position in the debates of the House, and as a political writer in his home papers. He was never a partisan in the strictest acceptation of the term. In his autobiography, which was published by his son, he says: "I was at all times a firm believer in the doctrines of General Washington, and an admirer of his conduct, measures and principles during his whole administration, though they were to me matters of history. I read and examined his principles, and have made them, in a great measure, the rule and guide of my life. I was, and always have been, a lover of the Constitution of the United States, and a friend to the Union of the States. I never wished to bring the Government to a mere confederacy of States; but to preserve the power of the General Government given by all the States, in full exercise and sovereignty, for the protection and preservation of all the States."

He served three Sessions in the Legislature of Massachusetts, then was transferred to Congress. He did an immense amount of correspondence with some of his old college chums while on his travels to the Capital of the Nation, and his views on some people of distinction there. In his letter from the City of New York, he tells

how the "youthful appearance, celerity and acuteness of Judge Kent" impressed him. He thus writes of Chief Justice Marshall, of the Supreme Court of the United States: "He is of a tall, slender figure; not graceful nor imposing, but erect and steady. His hair is black; his eyes small and twinkling; his forehead low; but his features are in general harmonious. His manners are plain, yet dignified, and an unaffected modesty diffuses itself through all his actions. In conversation, he is quite familiar, but is occasionally embarrassed by a hesitancy and drawling. I love his laugh. It is too hearty for an intriguer, and his good temper and unwearied patience are equally agreeable on the Bench and in the study."

Judge Story remained in the National Congress but one term, the Session of 1808-9. He was offered a re-nomination, but declined for the reason as he said: "Satisfied that a continuance in public life was incompatible with complete success at the Bar. I cannot disguise that I had lost my relish for political controversy, and I found an entire obedience to party projects required such constant sacrifices of opinion and feeling, that my solicitude was greatly increased to withdraw from the field, that I might devote myself with singleness of heart to the study of the law, which was at all times the object of my admiration and almost exclusive devotion."

In 1808, four years from the death of his first wife, he married again, to Miss Sarah Waldo Wetmore, the daughter of an eminent Boston lawyer.

A year later, notwithstanding his protestations against entering public life in 1811, he was elected to the Massachusetts Legislature, and chosen Speaker. He continued a member until the end of that year, when President Madison appointed him Associate Justice of the Supreme Court of the United States. He accepted the high office, but sacrificed a large practice which was

netting him \$5,000 or \$6,000, while the salary attached to his new position was only \$3,500.

Judge Story died on the 10th of September, 1845, aged sixty-six. For fifty years of that time he was never idle. Before his elevation to the Supreme Bench of the Nation, he was a most assiduous student and hard worker, and when he entered upon his judicial functions, instead of being an incentive to comparative rest, the office induced him to work all the harder. No man loved his profession more, and his office gave the opportunity of continuing his judicial studies without being distracted by the annoyances of an active practice. His life now separated absolutely from all political complications, placed him in a position exactly suited to his tastes, as his vast amount of legal writings confirm. To merely catalogue his decisions and opinions would, of itself, make a volume larger than the average jurist's whole labors. The decisions of his cases while on the Circuit comprise thirteen volumes, and the Reports of the Supreme Court containing his delivered opinions, comprise thirty-five volumes, in which he has contributed his full share among the others. In addition to all that the Court demanded of him, he wrote much for which he received no pay, comprised in his contributions on Common Law, Usury, Congress of the United States, and so on through a long list of kindred subjects, which appeared in the "Cyclopedia Americana."

In 1820, he participated in the Convention for the revision of the Constitution of his native State, in that important assembly advocating the permanence of the judicial tenure of office. He also delivered occasional addresses; one before the Suffolk Bar on the "History of the Common Law," and a *Phi Beta Keppa* oration at Harvard on the "Literary Condition of the Age." He wrote for the *North American Review*, one of his most admirable articles in that publication, his "Life and Services

of Chief Justice Marshall." In 1827, his "Laws of the United States" appeared, yet notwithstanding all these, he accepted the Dane Professorship of Law at Harvard University, which was established expressly for him, by the donor of the funds. All of his vacations were devoted to this new labor at the University. He delivered his inaugural lecture in 1829, and his subject was on the important divisions of legal study, the value of which he treated in his usual inimitable manner. In "Life and Letters of Joseph Story," by his son, his method of instructing the classes is thus described: "Instead of reading a series of formal and written lectures, his method of teaching was by familiar discourse and conversational commentary. He created fictitious cases for the illustration of the subject under consideration. He twisted the familiar incidents of the day into illustrations of legal principles. His lectures were not bundles of dried faggots, but of budding scions. Like the Chinese juggler, he planted the seed and made it grow before the eyes of his pupils into a tree."

In the year 1833 appeared his immortal "Commentaries on the Constitution." The great work was dedicated to Chief Justice Marshall, who, in his acceptance of it said: "A comprehensive and accurate commentary on our Constitution, formed in the spirit of the original text." Judge Story in his preface to the work, says, in relating his obligations to Judge Marshall, that he regarded him as carrying out the provisions of the Constitution in his high office, "with a precision and clearness approaching, as near as may be, to mathematical demonstration."

In the following year appeared Judge Story's "Commentaries on the Conflict of Laws." This work stands at the head of its author's legal productions. Chancellor Kent wrote of it: "There is no such book extant in any single branch of the law so full and per-

fect; and there was no head of the law which stood more in need of such a production, giving us all the principles and reasoning of all the great jurists of Europe on the subject." Chief Justice Marshall's comments on it are just as fully to the point. "I wonder how you ever performed so laborious a task. You must certainly love work for its own sake." In 1835 appeared his "Commentaries on Equity Jurisprudence," and a few years later, his "Promissory Notes." This was the last of his long series; he died shortly afterward.

Once, when Boston proposed to erect a statue, to him, he answered: "If they want to do me honor in any way, let it not be by a statue, but by founding in the Law School a professorship of Commercial Law."

Judge Story was called upon to suffer as all mortals must suffer; death took away some of his children, and his grief worked upon his sensitive nature in a terrible degree, but he stifled it as best he could by the active employment of his mind. In one of his letters to a friend, he says of his afflictions: "I bear the loss as well as I may. I fly to business to stifle my recollections of the past, and I find, what I have always believed, that employment is the only relief, under the severe losses of human life. It has fortunately happened that the session of the Circuit Court has compelled me to more than usual labor. My mind has been occupied, and I have been obliged to run away from the indulgence of grief."

In his biography, written by his son, he says of his illustrious father: "Cheerfulness he cultivated as a duty. It was his creed that we should keep our minds serene, bear up against misfortunes, avoid repinings, and look upon the sunny side of things. Early in his life he read in the *Spectator* a series of essays on this subject by Addison, which made a deep impression upon him and thenceforward he saw it 'writ down in his

duty,' to dwell upon the compensations of every disappointment, and to preserve, as far as possible, an equable and enjoying spirit. Moments of gloom and despondency fall to the lot of all, especially of the sensitive, but such moments and thoughts are for seclusion, not for society. He was not without his sorrows; but he strove to keep them to himself, so as not to overshadow with them the happiness of others. Even in solitude and meditation he studied to banish moroseness and melancholy from his thoughts, not only as being injurious, but unchristian. At once cheerful by temperament and by principle, he sought not only to do his duty, but to enjoy it, and to accept life as a favor granted and not a penalty imposed. Happy indeed, is he

'That can translate the stubbornness of fortune  
Into so quiet and so sweet a style.' "

Judge Story's life was a marvel of honesty and simplicity; his triumph through the medium of his unconquerable industry and determination, in the study of the law, which at first was the most disagreeable of tasks, to an inexpressible love for it, worthy the emulation of those many students who fail to realize what perseverance can accomplish, and how labor may be converted into exquisite pleasure.







*Wm Allen*

## HENRY MOORE TELLER.

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THE father of this distinguished Lawyer and Senator from the Centennial State, was a farmer of Dutch descent and was born in Schenectady, New York, in February, the first year of the present century. His mother, who still survives her husband, is a native of Vermont, in which State she still resides.

Henry Moore Teller, their son, like the majority of our public men, was not born in affluence. He, as have many others who have attained distinction in the Councils of the Nation and at the Bar, was compelled to teach school during a portion of his young manhood to enable him to procure an education.

His parents resided in Granger, Alleghany county, New York, where he was born, on the 23d of May, 1830. He received a good academic education, but while in attendance at the institution, at intervals was a teacher himself, in order to procure means to aid in the further prosecution of his studies. Having completed his academic course, and not possessing the means to enter college, he at once commenced to read law in the office of Judge Martin Grover, and was admitted to the Bar, on attaining his twenty-eighth year, in January, 1858, at Binghamton, in his native State.

Shortly after he began the practice he was affected with an attack of the Western fever, and moved to Morrison, Whitesides county, Illinois, which at that time was considered in the far-west. He remained there in the practice of his profession for three years and a few

months, and in 1861, removed to Colorado where he has since continuously resided.

In that progressive territory he found a wider range for the display of his talents, both in the domain of law, and in the prosecution of other enterprises which the great West offered, in all of which he has been remarkably successful.

He was the original projector of the Colorado Central Railroad, one of the most important enterprises ever attempted in the State, and to his energy the success of its establishment is largely due. Its charter was drawn up by him and presented to the Territorial Legislature in 1865. For a period of five years he was President of the Company, and during the construction of the road he infused the characteristic energy of his own progressive spirit, and its subsequent management has ever been watched by him with the greatest solicitude.

During the Indian troubles of 1863, he was appointed a Brigadier-General of the State's Militia, in which capacity he served for a period of two years and then resigned. Mr. Teller is a prominent Mason and Knight Templar, and has served as Grand Master of the State for seven years, and has been also Grand Commander of the Knights Templar of Colorado. In Masonry he has attained the coveted thirty-third degree.

In his youth a Democrat in politics, he severed his relations with that party in 1855, and affiliated with the Republicans, whose organization was then in its incipency. Although he was always actively engaged in earnest work for the party to which he had attached himself, he was never a candidate for any office until 1876, when he was brought forward for United States Senator, and even then he did nothing actively himself to obtain the exalted position. His long residence in the Territory, his zeal and energy in advancing its material progress, and his wide-spread reputation as a sound and

efficient lawyer, together with his record of previous labors for the advancement of the Republican party, and his extensive personal acquaintance with the people of Colorado, made it not only possible that, when the Territory assumed her position among the States of the Nation, he should be one of the first to represent her diversified interests in its Councils, but that he should by reason of long service be sent to the higher deliberative branch of Congress; so it was a foregone conclusion when his name was announced that the Legislature should select him as one of the Senators. Colorado at that time had just been admitted to the Union, and of course, the two Senators elected had to draw lots to see which one of them should serve for the short term, and which for the long one. Mr. Teller drew the short term, but when his four years had expired by Constitutional limitation, he was re-elected to serve the full term of six years, from the 4th of March, 1877.

In 1882, on the 17th of April, President Arthur appointed Mr. Teller Secretary of the Interior, which office he held until March, 1885, the date of the expiration of the Administration. The previous winter, he had been again elected to the United States Senate, to take the place of N. P. Hill, whose term expired on the 3d of March, 1885. His third term expiring in 1891, he was returned to the Senate for the fourth time, by the Legislature of 1890-1.

Senator Teller's career in the National Councils has always been marked by the same energy, the same integrity and the same sagacity that characterized his early life. As a business man and financier he has been proved by long experience; his judgment is clear, and upon his presentation of facts his mind is quickly formed, and in this particular of rapid decision he rarely fails to be correct in his judgment, whether as a lawyer, a politician or

a business man, when he is thoroughly acquainted with his subject.

He was married at Cuba, New York, on the 7th of January, 1863, to Miss Harriet M. Bruce, daughter of Packard Bruce, an intelligent, energetic and thrifty farmer. Of his marriage, four children have been born, all of whom are natives of Central Colorado. Mrs. Teller is a member of the Methodist Episcopal Church, of which her husband is an ardent supporter, but not a communicant.

Mr. Teller is popular with the people of his State, because their welfare and not his own personal interests have always characterized his official life. He is popular with the Administration and with his colleagues in the Senate, because of his intelligence, his fidelity and ability. He is five feet eleven inches in height, weighs 165 pounds, and is endowed with great powers of endurance. He is a man of great generosity and to the deserving poor has ever been a friend and benefactor. He has done a vast amount of gratuitous work for the State of his adoption, and has given his money freely wherever an advantage to the State could be secured.

In society he is genial and attractive, possessing magnetic qualities which instantly draw men to him; with his professional brethren he is courteous, affable and engaging. His reputation for probity and uprightness of life is above reproach. Studious, reflecting, laborious and faithful as a lawyer, he has acquired a position at the Bar, second to no one in the West. He is original, and his opinions are based upon mature thought. His perseverance is proverbial, and he never forgets a cause when clouds and doubts begin to gather around it. Before a jury, he is irresistible; while as a jurist his profound knowledge of legal principles and precedents is everywhere recognized.





*A. G. Thurman*

## ALLEN GRANBERRY THURMAN.

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ALLEN GRANBERRY THURMAN was born on the 13th day of November, 1813, in Lynchburg, Virginia, and is consequently seventy-eight years of age. Mentally he is as brilliant and strong as when in the prime of life, and physically as rugged and healthy as scores of men in their fifties.

His father was the Reverend Pleasant Thurman, a presiding elder of the Methodist Church, and his mother, the only daughter of Colonel Nathaniel Allen, who was the nephew and adopted son of Joseph Hewes, one of the three signers of the Declaration of Independence from North Carolina.

In 1819, when Allen was but six years old, his parents removed from Virginia to Ohio, and settled in Chillicothe, the old capital of the State. He made Chillicothe his home for thirty-four years, or until 1853, when he located in Columbus, which has since been his place of residence.

Mr. Thurman did not have the advantage of a collegiate education, but the careful and systematic training, given him by his mother, who was a woman of rare personal accomplishments, superior intelligence and intellectual attainments, combined with the educational privileges he received in the Chillicothe Academy, prepared him for the great struggles he encountered in after life.

He proved especially proficient in mathematics, and at the age of seventeen was graduated with first honors,

He became, also, quite proficient in the French language, having studied under a French tutor, living for a time at his father's house.

His health, which close application to study had seriously impaired, was permanently restored by exercise in field-sports and riding about the country as an assistant to the County Tax Assessor, conjoined with outdoor work as a member of a local surveying party.

He was next employed in the capacity of Private Secretary to Governor Lucas, then the Chief Magistrate of Ohio. From the time he began this employment he assiduously devoted himself, chiefly of night, to the study of the law; his position as Secretary imposing so many duties upon him, which in modern times would be assigned to a number of clerks, precluded the possibility of any leisure in the daylight hours, so he was literally compelled to burn the midnight oil in the pursuit of his studies.

In 1835 he was admitted to the Bar, and immediately entered the practice at Chillicothe, as the partner of his uncle, the Honorable William Allen, who was then United States Senator and subsequently Governor of Ohio, under whose instructions he had read law from the beginning. His uncle, the Senator, had, however, become so absorbed in political affairs, that the entire care and responsibility of the firm devolved upon young Thurman.

Thus being left with many important suits, involving great legal questions, but proving himself equal to the exigencies of each case, he soon became distinguished as one possessing extraordinary legal ability, and notwithstanding the fact that the Bar of Chillicothe stood unrivaled at that time in forensic learning and eloquence, in a few years he was employed on one side or the other of nearly every litigated case coming before the courts of Ross county, and was accorded rank among the ablest

and most distinguished lawyers at that Bar. He frequently appeared before the Supreme Court of the United States in important cases later, but as early as 1842 he achieved this distinction.

He first visited Washington in 1839, and his Uncle William, who was United States Senator, during the six weeks of his nephew's stay there, introduced him to many of the prominent men, notably among whom was John C. Calhoun, who accorded to the young attorney great attention and cordiality.

The Circuit in which Mr. Thurman practiced at this time, consisted of four counties, including Ross, and in "Riding the Circuit," as it was then termed, the journeys were usually made on horseback. These hardy trips served to make more vigorous young Thurman's health which had been previously restored by outdoor work immediately after his school days had ended.

He was an ardent supporter of the principles of Democracy, and always took an active interest in public affairs, but being intensely devoted to his professional work, repeatedly declined the importunities of his friends to become a candidate for the Legislature. Not until 1844 did he consent to allow the use of his name in connection with any office, and indeed his candidacy then was only accepted after the Congressional Convention had nominated him without his knowledge or solicitation; in fact it was during his absence on professional business.

He, however, was persuaded to accept the nomination, and thereupon entered the canvass with that zeal and intensity which has characterized and popularized his efforts through life. His opponent was a Whig and a strong adversary, but by making a personal canvass of the District, meeting him in many instances in joint discussion, Mr. Thurman's superiority was in every respect so fully recognized, that he was elected by a very

satisfactory majority, and took his seat on the 1st of December, 1845, as the youngest Representative in the Twenty-ninth Congress.

Among his distinguished associates in that House were John Quincy Adams, Stephen A. Douglas, Hannibal Hamlin, David Wilmot and Robert C. Winthrop. He at once took rank as an able member, and was placed on the Judiciary Committee as an acknowledgment of his legal attainments. He delivered many able speeches; took part in the running debates of the House, and his position on measures of importance has never been the subject of criticism. He advocated and voted for the "Wilmot Proviso;" strenuously opposed the repeal of "The Missouri Compromise," showing profound wisdom upon all those momentous questions that agitated the country nearly half a century ago.

At the end of his term, however, he positively refused a re-nomination, notwithstanding his wonderful success in Congress and the great opportunities offered him for further distinction in political life. Preferring above all other things the practice of his profession, he resumed his labors therein, which he actively continued until 1851, when he was elected to the Supreme Court of the State on the Democratic ticket. He served upon the Supreme Bench for four years, the last of which as Chief Justice, and in this capacity, as well as in all other positions of responsibility and trust to which he has been called, his fitness and qualifications were manifest. His superior ability, his firmness and impartiality, his purity and integrity of purpose, all combined to exalt him still more in the conception of the Bar and the public generally, and added volumes to his personal popularity. His opinions are embraced in the first five volumes of the Ohio Reports, and warrant the assertion that for clearness, accuracy, concise statements and conclusions of law, they stand unparalleled in the history

of the State. Of his many able successors, none have shown finer ability, or exhibited a greater judicial mind. His decisions have been cited, quoted and accepted as standard authority on all subsequent causes arising, in which the same questions were involved.

So far, official life for Judge Thurman had no allurements; at the end of his term on the Supreme Bench, he declined a re-nomination, as he had previously done at the conclusion of his term in Congress; one of the reasons for not desiring to continue on the Supreme Bench was, that he deemed the salary insufficient for the support of his family.

On leaving the Bench he immediately resumed the practice, this time settling in Columbus, and business came pouring upon him in such volume that he was compelled to refuse many important and profitable cases, and thus when his great legal ability was fully manifest, the fruits of his labors yielded him a competency and plentitude, not previously afforded in his official or professional life.

In 1867 he was unanimously nominated for Governor of Ohio. This memorable contest, in which he was opposed by Rutherford B. Hayes, afterward President of the United States, brought Judge Thurman into prominence and gave him that distinction for personal popularity, which he has since retained. Republican majorities for several years had been overwhelming; four years previously the famous Vallandigham was defeated by more than 100,000 votes, while two years before Mr. Morgan, an exceedingly popular candidate, was defeated by 29,000. The election was for State officers alone, and the vote was the largest ever thrown in the State, yet Judge Thurman was defeated by less than 3,000 votes, but the Democrats having carried the Legislature, he was subsequently elected to succeed Benjamin F. Wade in the United States Senate, which in the

end proved a greater victory than to have gained the Governorship.

Of the sixty-six members of the Senate, representing the thirty-three States of the Union, only seven were Democrats. From the time he took his seat, on the 4th of March, 1869, he was the acknowledged leader and champion of Democratic principles and the minority in the Senate, and this place he held during his entire term of service, without dispute or rivalry.

He was given membership on the Judiciary Committee, and upon the accession of his party to power in the Forty-seventh Congress, was made Chairman of that important Committee, and also elected President *pro tempore*, of the Senate.

His first term of service having expired, in 1874, he was chosen for a second term, and in the Senate was acknowledged as superior authority on all Constitutional questions. Throughout his entire service he was especially noted for his fairness in debate as well as his power, always maintaining that dignity which becomes one in such a position; yet he was benevolent, courteous and urbane to all with whom his business or social intercourse associated him.

The sphere of his usefulness in the Senate, and his perfect work was boundless; his service rendered upon the Committee of Private Land Claims, is a matter of public history, and his speeches on such claims, land titles generally, Mexican grants, etc., have become among the most notable for profound legal learning, exhaustive research and familiarity with details, ever delivered in that body.

The "Thurman Act," of which he was the author, was passed in the face of the determined opposition, wealth and influence of great railroad corporations. By this act, these great moneyed concerns were com-

pelled to fulfill their lawful obligations to the Government, after years of persistent violations.

Senator Thurman was an ardent supporter of the doctrine of state-rights', but never went to such an extreme as to justify Secession. His belief was: "If the seceding States were out of the Union, the North was at war with them and every loyal man must stand by the flag; if they were in the Union they were in a state of insurrection that must be suppressed." In a recent letter to a friend, he defined his attitude during the war thus: "I did all I could to prevent the war, but after it was begun I thought there was only one thing to do, and that was to fight it out. I therefore sustained all Constitutional measures that tended in my judgment, to put down the Rebellion. I never believed in the doctrine of Secession." His views were more fully and forcibly expressed in the Senate on the 23d of January, 1872, when one of these Constitutional questions affecting Reconstruction legislation for the Rebellious States was under consideration:

"Mr. President: I once more say that, although I have never gone to any such length as some state-rights' men have gone in deducing the doctrine of the right of secession, and have never believed, and do not believe in that doctrine, yet I am, and I hope I shall die a state-rights' man. I am so because I believe that the existence of local self-government is essential to freedom and to prosperity in this country.

"If there is no such thing as state-rights', how comes it that the two distinguished Senators from Vermont are here, coming from a State with not one-tenth, one-twelfth, very little more than one-thirteenth the population of the State of New York? How comes it that with 300,000 inhabitants only, there are two Senators on this floor from Vermont—while New York, with more than 4,000,000 has but two? How comes it, sir,

if there is no such thing as state-rights? \* \* \* What right have they to make local laws for Ohio? \* \* \* What is it that gives them this unequal representation in the Senate but the doctrine of state-rights ; nay, sir, to go farther, but the doctrine of the original sovereignty of the States? I am willing to stand by this inequality in the Senate of the United States so long as you stand by the Constitution as its framers intended it to be ; so long as you do not trample the State governments out of existence ; so long as you let local legislation be the subject of the local State law alone ; so long as you do not interfere and usurp the powers that properly belong to the States, I greet with arms wide open the Senators from the smallest State in this Union."

The zeal exhibited by Senator Thurman in securing favorable Reconstruction laws for the Southern States has been utilized as a basis for the charge that he was in sympathy with the doctrine of Secession, and approved the course of the Southern people, but the record repudiates the charge.

In commenting upon these great questions of difference and discussion, one of the leading journals of the country accords Judge Thurman this high distinction :

"Since his retirement from the Senate, in 1881, the highest judicial tribunal in America has rendered a series of decisions which fully sustain Mr. Thurman's position on the great issue of state-rights, and which, indeed, read like extracts from his own speeches. \* \*

\* He has the satisfaction of finding the sound doctrines of the Constitution, for which he made a gallant, but hopeless fight against a Republican majority in the Senate established for all time by the decisions of a Republican Supreme Court, overthrowing the acts which he vainly protested were Unconstitutional."

In Blaine's "Twenty Years of Congress" he says of Judge Thurman: "It was at the full maturity of his

powers, in the fifty-sixth year of his age, that Mr. Thurman took his seat in the Senate, March 4, 1869. He had been chosen a Representative in Congress for a single term, twenty-five years before, and had afterward served a full term on the Supreme Bench of Ohio, the last two as Chief Justice of the Court. He was not, therefore, an untried man, but had an established reputation for learning in the law, for experience in affairs, for intellectual qualities of a high order. During the long interval between his service in the House and his installment in the Senate, the relation of political parties had essentially changed. Mr. Thurman had changed with the times and with his associates. \* \* \* His Virginian birth, his rearing within the lines of the old Virginia Military Reservation in Southern Ohio, his early associations with kindred and friends, all contributed to his education as a Democrat. He naturally grew to strong influence with his associates, and when he came to the Senate was entitled to be considered the foremost man of his party in the Nation.

"His rank in the Senate was established from the day he took his seat, and was never lessened during the period of his service. He was an admirably disciplined debater, was fair in his method of statement, logical in his argument, honest in his conclusions. He had no tricks in discussion, no catch-phrases to secure attention, but was always direct and manly. His mind was not preoccupied and engrossed with political contests or with affairs of State. He had natural and cultivated tastes outside of those fields. He was a discriminating reader and enjoyed not only serious books, but inclined also to the lighter indulgence of romance and poetry. He was especially fond of the best French writers. He loved Moliere and Racine, and could quote with rare enjoyment the humorous scenes depicted by Balzac. He took pleasure in the drama, and was devoted to music. In

Washington he would be found in the best seat in the theatre when a good play was to be presented or an opera given. These tastes illustrate the genial side of his nature, and were a fitting compliment to the stronger and sterner elements of the man. His retirement from the Senate, was a serious loss to his party, a loss indeed to that body. He left behind him pleasant memories, and carried with him the respect of all with whom he had been associated during his twelve years of honorable service."

Upon his retirement from the Senate he returned to his practice in Columbus, and since has appeared as counsel in many important cases. He has taken but little interest in public affairs, and often stated that he had no desire to re-enter public life.

He received strong support for the Presidency in 1876, 1880 and 1884, and in 1888 was nominated for the Vice-Presidency by the Democratic National Convention at Saint Louis, where his entire support was spontaneous throughout the proceedings. Doubtless if he had arranged a campaign and used measures of solicitation, which are regarded as perfectly legitimate in modern politics, nothing could have prevented his nomination for the Presidency at any of the periods mentioned.

The candidacy of Ex-Governor Isaac P. Gray of Indiana for the Vice-Presidency in 1888, was regarded with general favor and his nomination conceded, but the day previous to the assembling of the Convention on the 5th of June, 1888, the name of Allen G. Thurman was mentioned by the public press for the Vice-Presidency, and from that moment the thought took wings, and the entire Democracy with one voice seemed to demand it. The result of the first ballot showed 685 votes for Thurman, 104 for Gray of Indiana, and 32 for Black of Illinois, but before the result was proclaimed, the names of Gray and Black were withdrawn and the nomination of Thurman made unanimous.

Senator John W. Daniel of Virginia paid Mr. Thurman a glorious tribute, of which the following is an extract, in his speech seconding the nomination, which was received with wild and deafening applause, and was delivered during short intervals of silence:

"In an age of corruption he was an exemplification of purity; in an age of extravagance he was the sentinel of economy; in an age of sectionalism he knew only his country; In an age of hate he was the incarnation of fraternity; in an age of scandal the salt of his good name never lost its savor. They say that the grand old man is old. There is no hair that glistens on the patriot's brow that did not grow white in Democratic service. The revolving years that have circled around his head have each of them left in its track a new ring of glory. Can I not say of him, in the language of the poet:

" ' Age may o'er his brow be flung,  
But his heart his heart is ever young.'

"Old indeed! but not too old to receive the tardy honor of people to whom he has been faithful, or to requite them with renewed and faithful service. Why not nominate him now my countrymen, and by acclamation? He stands before you the living embodiment of Democratic virtues. He stands before you the illustrated epitome of Democratic history. He stands before you the faithful champion of Democratic principles and the rightful heir to Democratic honors." Continuing, and waving an old-fashioned bandanna handkerchief, the use of which Mr. Thurman quaintly retains, Senator Daniel said: "I fling this banner to the breeze, the symbol of his name. It is an emblem which, like the cap of liberty, equality and fraternity, needs but to be seen to carry its message."

As a special mark of consideration, General Garfield directly after his inauguration as President associated Mr. Thurman with William M. Evarts of New

York and Timothy O. Howe of Wisconsin on the American Commission to the International Monetary Conference to be held in Paris. Previous to his elevation to the Presidency, General Garfield had been elected to the United States Senate to succeed Mr. Thurman, but the contest had not estranged them and profound friendship existed between these two great men until General Garfield's death. General Garfield was a member of the House of Representatives when elected to succeed Senator Thurman, and before taking his seat was elevated to the Presidency, thus at one and the same time being Representative in Congress from the State of Ohio, Senator, and President-elect of the United States, a coincidence without precedent in the history of the Republic.

In 1844 Mr. Thurman married the only daughter of Mr. Walter Dun, a neighbor, and a personal friend of Henry Clay. Mrs. Thurman accompanied her husband to Paris on his visit there in 1881, and they spent several months of that year visiting Great Britain, Belgium, France and other European countries.

The title "Old Roman" was given to him during his service in the Senate as a peculiar recognition of his characteristics, in much the same manner as Douglas became the "Little Giant," Jackson "Old Hickory," Benton "Old Bullion," and John Quincy Adams "Old Man Eloquent."







Yours Truly  
Jno M. Thurston





## JOHN MELLEN THURSTON.

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THE history of the country does not furnish a better illustration of a self-made man, than is shown by the record of Mr. John M. Thurston.

At the age of forty-three years he is general solicitor and legal adviser of the greatest railway system of the continent; has achieved a National fame as an orator second to none, and is already looked upon as one of the coming leaders of the Republican party. What he has won has been the result of hard work, manly independence and great ability. Commencing life as a poor boy; compelled to labor with his hands for daily bread, he has risen above the circumstances of birth, and is an illustrious example of the possibilities of our civilization and free institutions.

He was born in Montpelier, Vermont, on the twenty-first day of August, 1847. His family, on his father's side, was descended from John Thurston, who came from Suffolk in England, and settled at Dedham, Massachusetts, in 1636. There were three Thurstons who arrived in New England at about the same time and are supposed to have been brothers. From them have descended almost all of that name now living in the United States.

Mr. Thurston's mother's name was Ruth Mellen. Her family originally came from Ireland. They were among the first settlers of what was then known as the "Hampshire Grant," which is now the State of Vermont. His grandfather, John Mellen (after whom our subject was named,) and his brother Thomas were in the battle of

Bennington under General Stark. His grandfather Thurston was a soldier in the War of 1812, and his great-grandfather a Revolutionary patriot, having also served as a soldier in that struggle.

Mr. Thurston's father was Daniel Sylvester Thurston. He was one of a large family born in Orange county, Vermont. One of his brothers, Elisha Thurston, worked his way through college, took up educational pursuits, was professor in various institutions of learning, and at one time was State Superintendent of Public Instruction in Maine. About the time of the commencement of the Kansas troubles, he moved to that State, engaged in the practice of law, was very active on the side of the Free-Soiler, and about 1860, at the time of his death, was Mayor of Manhattan, Kansas.

The father of Mr. Thurston was, for the greater portion of his life, a farmer. For a few years prior to emigrating from Vermont, he was engaged in conducting a tannery; was also for some time a member of a mercantile firm. In 1854, he moved to Madison, Wisconsin, where he remained for four years, and then went to Beaver Dam, in the same State. He was a man of very great natural ability; took an active part in all public affairs, and is said by those who remember him, to have been a forcible and direct speaker, although he rarely took part in public discussions. At the inauguration of the Civil War, he enlisted in the First Wisconsin Cavalry, notwithstanding the fact that he was fifty-four years of age. His enlistment as a private was made prior to the organization of the Regiment, but with the promise that he should receive the appointment of Regimental Wagon-Master. Before the Regiment left the State, however, he received a commission as Second Lieutenant of the Seventeenth Wisconsin Infantry, generally known as the "Irish Brigade," and assisted in recruiting a company for that Regiment. Before the

Regiment left the State for the seat of war, it went into winter quarters late in the fall of 1861, at Madison, the capital, where it was overtaken by violent storms and severe weather before it could be provided with the proper shelter. In consequence of this exposure, the old gentleman was attacked with congestion of the lungs, and just before the Regiment departed for the front, he was carried to his home at Beaver Dam, on the supposition that his illness would necessarily be fatal. One of his last official acts before he left, was to resign his commission, so that an active man could be appointed in his place to take the field.

Recovering from his severe illness, to the surprise of everyone acquainted with him, the following summer, 1862, he again enlisted as a private in the First Wisconsin Cavalry, and with that organization participated in the campaign against the "Guerillas" of Missouri. He remained on duty with his company until the spring of 1863, when he was sent home in a dying condition, living but a few days after arriving there. His family at that time consisted of his wife, three married daughters, one unmarried, and the son, John Mellen, who was now compelled to help support his mother and the rest of the family, as they were left almost wholly without means. The brave young fellow took hold of anything he could find to make honest wages. Every summer, from the time he was fourteen years old, he worked in the harvest fields of Wisconsin, and in the autumn hired out as an attendant to a threshing machine, receiving for his employment, about thirty dollars a month.

In 1865, when but seventeen, he went to the great City of Chicago, to accept a situation as driver of a horse and wagon for a wholesale fruit and fancy grocery store, of which Matthew, Graff & Co., located on South Water street, were proprietors. For this work young Thurston received ten dollars a week, out of which he

was obliged to pay his board. Continuing at it for a year, he discovered that except a new suit of clothes which he did not have at the commencement of the year, he was no better off than when he begun.

He then returned to his mother's home at Beaver Dam, and for three winters engaged in fishing through the ice and trapping, employing a number of boys to work for him on shares, he furnishing the necessary outfit. He also drove a team over the lake twice a week, purchasing fish, which he shipped to Chicago; and during the time he was engaged in this business, made it quite profitable, one winter clearing nearly \$1,000. During this period he attended the public schools of Beaver Dam, for a portion of the time keeping up in all the classes, though he was absent, necessarily, the greater part of the year.

In the spring of 1866, he left the public schools, and entered Wayland University, an institution in Beaver Dam, which, at that time, had a full preparatory and collegiate course, ranking with the average Western Denominational College. This was a Baptist institution, and was really a very good school. It was kept alive by that sect of Christians in Wisconsin, but it met the fate of a great many of its class. During the time young Thurston was there it was closed for want of funds to carry it on, and he was compelled to leave with the other students. This disaster occurred in the summer of 1868. He had managed to attend school about half of each school year, though he had kept up with his classes, so that when the institution was compelled to close, he had but one more year to study there to complete the full course of the College, but this collapse of the College ended Mr. Thurston's school days.

He now determined to study law, and to that end entered the office of Mr. E. P. Smith, an eminent attorney of Wisconsin, for many years a practitioner at the

Milwaukee Bar, who then was a member of the Beaver Dam Bar. One of the curious and pleasant changes of fortune has placed Mr. Smith under Mr. Thurston's supervision as Assistant General Attorney of the Union Pacific system for the State of Nebraska.

On the 21st day of May, 1869, after an examination in open Court, by the Honorable Alva Stuart, Circuit Judge in Portage, Columbia county, Wisconsin, Mr. Thurston was admitted to the Bar. As soon, however, as he had passed a severe and successful examination, he found it necessary for the remainder of that summer to return to manual labor; first taking a contract to put up several miles of board fence on a large farm near the town. When the grain harvest commenced, entering the fields as a binder, continuing at this hard labor to the end of the season. Then he prepared to move West, though he had no acquaintances in all the great domain included in that title. He procured a map and studied it carefully; for a long time he was undecided. His choice wavered between Kansas City and Omaha; but he finally decided in favor of the latter, largely for the reason that it was situated in the State from which its business must come; while Kansas City was on the Western border of Missouri, where its commercial and other relations would necessarily be more identified with Kansas affairs.

Mr. Thurston arrived in Omaha on the morning of October 5th, 1869, in company with Mr. Herman E. Luthe, now a successful attorney at the Denver Bar, it being their intention to practice law together.

It is a popular belief of young attorneys that they should associate themselves together in business when they go to a new place to commence the practice of their profession. On the day of their arrival in Omaha, Mr. Thurston was possessed of about forty dollars, and he walked into the office of Mr. William H. Morris, now Judge of the Fifth Nebraska District, and asked him if

he knew of a place where two young lawyers could get cheap office room. Mr. Morris replied he did not, but that they could put up a desk in his office if they wished and were willing to pay ten dollars a month for the privilege. Mr. Thurston immediately paid him that amount out of his forty dollars, and the young men moved in, bringing with them an old desk which had been shipped so as to be in Omaha by the time of their own arrival. Then, theoretically, they commenced the practice of law. Their office was in a large room in the old Visscher block, where the Millard hotel now stands. The great room was occupied by Judge Morris as a justice's office, by William Kadd as an employment office, and by the law firm of Thurston & Luthe.

The young attorneys very soon discovered that where there is not business enough for one to live on, two must necessarily starve if they attempt to divide it between them, so Mr. Luthe, who had married just before leaving Wisconsin, and had brought his wife with him, abandoned the practice temporarily and obtained work in the Union Pacific shops as a machinist. Thus was the law firm of Thurston & Luthe dissolved. The junior member after working all winter, sent his wife back to Wisconsin, went to Denver, where he eventually succeeded in taking high rank in his profession.

Mr. Thurston, true to his characteristic of persistence, stuck to his office both theoretically and in reality. He slept on its floor at night, using for his bedding some quilts and a buffalo-robe, which he had brought from his home in Wisconsin. This improvised bed was rolled up in the morning and hidden in one corner of the room. During all the period of his novitiate in Omaha, as Judge Morris very vividly recollects, Mr. Thurston was reduced to the necessity, for many considerably extended intervals of time, of living on the nutritious, but rather monotonous diet of crackers, which he was very luckily able to

buy by the box from the grocery store of Burleigh, then in Caldwell block, at wholesale prices.

Thus Mr. Thurston struggled on, varying success attending his efforts, as has been the fate of hundreds of other young men in the incipient days of their practice. In the fall of 1871, Judge Morris resigned his position as Justice of the Peace, and Mr. Thurston was appointed by the County Commissioners to fill the vacancy. Judge Morris and himself now removed to the "Caldwell block," where they occupied one room, instead of two as formerly. After Mr. Thurston's appointment as Justice of the Peace occurred, the positions of the tenants was completely reversed; Mr. Morris now occupied the little desk of the lawyer, and Mr. Thurston the judicial chair.

Mr. Thurston continued to practice his profession, and "run" the office of Justice of the Peace, until the spring of 1873, when he resigned the latter position to form a law partnership with Honorable Charles H. Brown. The previous spring Mr. Thurston had been elected a member of the City Council, from the third ward of Omaha, which office he filled for two consecutive years, acting as President of the body and also as Chairman of the Judiciary Committee.

In the spring of 1874, upon the expiration of his term as Alderman, he was appointed City Attorney by the newly elected Mayor, Honorable C. S. Chase, which position he filled for three years, resigning finally, to accept the Assistant Attorneyship of the Union Pacific Railway, under the Honorable A. J. Poppleton, who was General Solicitor of the lines of that corporation.

On Christmas day, 1872, Mr. Thurston was married to Miss Martha Poland, daughter of Colonel Luther Poland, of Omaha, a most estimable lady, whose family were, like her husband's, originally from Vermont. Her uncle, her father's brother, was the honorable and venerable Luke P. Poland, for many years Chief Justice of the

Green Mountain State, a Representative in Congress for several terms and United States Senator.

Of five children born of this marriage, three were sons and two daughters. Two of the sons died of diphtheria in their infancy, leaving one son and two daughters who now, with his estimable wife, comprise Mr. Thurston's accomplished family.

For fifteen years, Mr. Thurston has been prominently identified with a majority of the leading cases in the courts of Nebraska. Early in the spring of 1877, he was employed by the Governor of the State, under authority of an act of the Legislature, to prosecute the case of the State of Nebraska v. Ira P. Olive. This was a veritable *cause celebre*, and known to the history of Western jurisprudence as the: "Great Man-Burning Case." Olive and others, who were residents of Custer county, were charged with the horrible crime of not only hanging but of also burning two victims of their ferocity, named Mitchell and Ketchum, in the wilderness of that unsettled country, where their charred bodies were afterward discovered.

The trial created great excitement at the time, and was participated in by the leading lawyers of the State. The cattlemen of the whole West took up the matter for the principal defendant, Olive, and for a long period there was intense excitement and grave apprehensions that there would be bloody doings at Hastings, where had assembled hundreds and even thousands of "Cow-boys," many of whom were supposed to have come from Texas for the purpose of rescuing Olive and his associates in the crime. Mr. Thurston was given the post of honor in the trial and made the closing argument for the State. Olive was convicted of murder in the second degree and sentenced to the penitentiary for life. He was afterward released on a decision of the Supreme Court of Nebraska, to the effect that the laws had been so "bungled," that prose-

cution for crime committed in Custer county could not be heard in any other county, and there was no provision of law for prosecution in Custer county.

Among other notable trials in which Mr. Thurston has participated was a case prosecuted in York county, where two persons were arraigned for killing one William H. Armstrong. This was a case attended by the most romantic circumstances. It grew out of a runaway match between one of the defendants and the daughter of William H. Armstrong, the deceased. The trouble occurred in the presence of the young woman, who was at the same time the daughter of the man killed, and the wife of one of the men who participated in the homicide. Mr. Thurston was the leading counsel for the defense, and after a most exciting trial the defendants were acquitted. The somewhat noted Henry Clay Dean, was brought into the State by the friends of the deceased, and conducted the prosecution.

Mr. Thurston has also taken a leading part in a number of more or less celebrated murder trials in Nebraska; he, together with the Honorable James W. Savage, defended John W. Lauer, whose trial in Omaha four years ago for killing his wife, is still of recent memory. This case was one of the most celebrated criminal cases ever tried in Nebraska. Public opinion was largely against the defendant. The prosecution was very ably conducted by the District Attorney, Mr. L. S. Estelle, with whom was associated that prominent and successful prosecutor, John C. Cowin. The first trial resulted in a verdict of manslaughter, which was no more satisfactory to the public than to the defendant.

Although the Supreme Court had just decided in the "Bohannon case," that a defendant at whose instance a verdict was set aside, could be again put on trial for murder in the first degree, even though on the first trial the verdict had been given of a crime of a lower degree.

The defendant upon being fully advised of the possible result to him, insisted upon a motion for a new trial. Upon presentation thereof the motion was sustained upon the ground, as generally understood, that the defendant was certainly guilty of murder in the first degree if guilty of anything, and that the evidence did not justify in any legal sense a verdict of manslaughter.

This seemed to be the opinion of those who had followed the course of the first trial, during the progress of which, the press had very fully printed the evidence of witnesses and arguments of counsel. Mr. Thurston was sharply criticised by the profession in the State for permitting his client to submit himself to the chances of a second trial under the lately announced rule in the "Bohannon case," and this criticism was much stronger when it was known that the second trial was to occur in Douglas county. The public interest in the case was intense, not only in Omaha, but in all that portion of the State, in which the daily papers made neighborhood items of the news of the city.

Lauer's boldness and the courage of his counsel in again going to trial before a jury drawn from a hostile and excited community compelled respect, because such a course demonstrated a consciousness of the innocence of the accused, known to him and relied upon by his counsel. It is seldom that a new trial is taken at the cost of such fearful possibilities. The result justified the act of the defendant; the trial lasted a week, and the prosecution by the State was based mainly upon what is known as "circumstantial evidence," but it was ably presented. That made by the defendant was to explain the apparently incriminating circumstances and to reconcile the whole evidence with the fact of the defendant's innocence. The arguments of counsel both for the State and the defendant may be read with profit, as models, by the criminal practitioner. Mr. Thurston,

by his effort, confirmed himself in the opinion of the people and the Bar as a most powerful advocate. The result was a verdict for the defendant, which was satisfactory, and the defendant was also acquitted at the bar of public opinion, before which he had been so recently condemned.

While Mr. Thurston has not devoted himself to criminal practice, but has rather avoided than sought employment in capital cases, yet he has been called upon to defend fourteen persons charged with murder, and has the almost unprecedented record of final acquittal in every case. When he became General Solicitor of the Union Pacific Railway Company, he had, perhaps, the largest general practice of any lawyer in his section of the country.

Since accepting the position of General Solicitor of the Union Pacific Railway Company, the responsible duties of which office he assumed on the 1st of February, 1888, he has retired from the general practice of the law, as the business of the Railway System, which is now all under his supervision, occupies his entire time and close attention.

In 1880 Mr. Thurston was one of the Presidential Electors for the State of Nebraska, and was the Messenger to carry the vote to Washington. In 1884 he was Delegate at large to the Republican National Convention held in Chicago; he was the Chairman of his State's delegation in the Convention as well. He participated in the debates of the proceedings, and seconded the nomination of John A. Logan for the Vice-Presidency.

He was a member of the National Republican Convention which nominated General Harrison for President, and the temporary presiding officer of that august body. A recently published statement says of him: "Mr. Thurston has long been known as an able lawyer,

but it was not until the assembling of the late Republican National Convention in Chicago, when he was made the temporary presiding officer, that he achieved a National reputation as an impressive orator. His speech delivered upon that occasion was one of great power, and elicited rapturous applause from the vast multitude present. Indeed, he was accorded at its close an ovation such as few speakers ever receive. He has a strong, clear, penetrating voice, and every word is uttered with the utmost distinctness; at no time is there any hesitation in his speech for the want of a proper term to express his meaning. His command of language is very unusual, while grace and polish mark every sentence. Added to these accomplishments is a splendid presence, which at once stamps him as a man of much more than average character, and as a leader of men instead of a follower.

"The record Mr. Thurston has made thus early in life is one not often met. He has not attained his present legal eminence on account of favoring circumstances, but it is clearly the result of natural ability and close application to his profession. While he has always taken an active and personal interest in political affairs, he has been thoroughly devoted to the law, and has made everything else subordinate to its pursuit. \* \* \*

During the recent political campaign Judge Thurston appeared in various parts of the country in the interest of the Republican party, and everywhere met with a cordial reception from the people, and strengthened his great reputation as an orator. On the night of Wednesday, October 17, 1888, he addressed the largest audience ever assembled in Chicago up to that date, to listen to a political speech. Five thousand ladies and gentlemen were crowded into Battery "D," and for two hours he held the vast assemblage as eager listeners to his splendid eloquence. The verdict of the Chicago press was

that Judge Thurston has but few equals in this country as a finished orator."

Mr. Thurston's family and ancestors have all been believers in the Orthodox religion. He is not a member of any church organization, but is a very earnest believer in the general tenets of the Christian faith. Five years ago, at the Chautauqua Assembly in Crete, Nebraska, he delivered an oration during the day set apart and called "Lawyers-Day," on the subject of Law and Religion, in which he took the strongest possible ground in favor of the Christian belief which asserts the existence and unity of God, the resurrection and immortality of the human soul, and the atoning power of our Savior's crucifixion.

In the fall of 1875 Mr. Thurston was nominated by unanimous choice as the Republican nominee for Judge of the Third Judicial District of Nebraska, in which district Omaha is situated, but was defeated at the polls by a small majority, his opponent being the Honorable James W. Savage.

Mr. Thurston is generally called "Judge," not because he ever held a judicial position, but because his friends, it is presumed, thought that when Judge Savage secured the office, his opponent was at least entitled to the brevet of that rank.

It need hardly be said that Mr. Thurston is a lawyer of the first class. In consultation he withholds his opinion until in possession of the whole case, and he has looked at it from every side. He examines with minutest care all the facts upon which a controversy depends, and with patience and painstaking scrutiny, masters in advance all the details of the field upon which the battle must be fought. He notes and strengthens the weak places in his cause and disposes himself to parry or prevent a dangerous wound or mortal striking at the hands of a skillful adversary. He considers and adapts his

plans for the impending battle ; with the greatest of care he studies his adversary's case, and reasons from his standpoint as if the case were his own, and does this with such consummate skill, that rarely, if ever, is he surprised upon the trial by the strategic measures of his opponent, or by any mode of attack, which to others might be unexpected. His self-possession is his strongest weapon, either for offense or defense. His perfect work of preparation has armed him against surprises. He quickly comprehends the views of others, and approves of them generously or calmly develops his objection. He does not indulge in much debate. Having arrived at his own conclusions, he expresses himself briefly and decisively. His power and skill in the trial of cases before juries is remarkable. His familiarity with the details of the controversy enables him to know just when, and from what source to expect the most telling blows his opponent may give, and to know at what moment and when, he may find the weak points in the harness of his adversary's cause. In such matters, his readiness is in no sense anything but the result of careful preparation and study of the facts and their effects. He sees the case in all its aspects, appreciates the character of the witnesses, and how their testimony impresses the jury. His examination and cross-examination of witnesses is direct, simple and fair. He has learned the art, perhaps the most difficult to acquire, of waiving cross-examination, apparently taking but little note of the matter or manner of the witness. Seldom does a party gain from Mr. Thurston's course the benefit of testimony he himself could not properly produce. A willful witness, however, soon finds that a firm, quiet hand is upon him, and yields to its moral power. In his addresses to juries, where there is occasion, he is impassioned and persuasive, displaying the most efficient power of the advocate. His method is to resolve from the testimony some one con-

trolling theory as the measure of fact upon which he rests his case. All the arts of advocacy to which he resorts are attacks upon such of his adversary's points as militate against his own, and to gather from the whole field the facts and circumstances which establish his contentions. In the discussion of fact he never unfairly strays from the record. In his presentation of reasons he is facile in illustration, ready in appreciation and quick at repartee. In his treatment of parties and witnesses he is always as generous as the nature of the subject permits. He does not seek to win by unmerited abuse or unjust ridicule. He relies upon the strength of his cause and the fairness of his reasoning, rather than upon any weakness or wickedness of the men in his adversary's camp. When confronted by a story, of the willful falseness of which he is convinced, his resort to invective, sarcasm and ridicule has proven him master of the forces of this kind of advocacy, no less than of the gentler and more pleasant arts of the profession. He enjoys the struggles and triumphs of the forum and is not cast down by defeat. However severe the struggle, he throws into it the fullness of his strong personality and accepts the result whatever it may be with the consciousness that his full duty has been performed.

But it is not by the triumphs of the forum or the arts or success of the advocate that Mr. Thurston's merit as a lawyer is to be measured. In the earlier years of his practice, he diligently read and studied the works of those great commentators and authors who laid deep and broad the foundations of our common law and equity jurisprudence. He made the result of their labors his own, so that he began by becoming "well-grounded in the common law." His familiar contact with men and affairs has so ripened his judgment; broadened and quickened his powers of observation and application, that it is to his ability as a counselor that he owes his

proudest success as a lawyer. The complicated questions of corporate administrations in their legal effects come to him almost hourly for immediate investigation and instant action. His training and habits of thought and purpose have demonstrated that the arts of the advocate sink far below the solid powers of the deliberate adviser.

Mr. Thurston has delivered many memorable addresses in different parts of the country. His oration on the Centennial Anniversary of Constitutional Independence at Chicago, in 1889, his eulogy on General Grant before the Union League Club, his address on Abraham Lincoln in 1890, and his tribute to the "Man who Wears the Button," are among the most remarkable. The press of the whole country has seemed to unite in commendation of his abilities as a powerful and eloquent public speaker. He was urged by the greater portion of the entire West for appointment as Secretary of the Interior in the Cabinet of President Harrison, and although he made no effort to secure the position, it was at one time believed that his selection was certain. His name has twice been strongly presented to the Legislature of his State for the position of United States Senator, although he has never really been a candidate for that office. Were it not for his railway connections, the people of Nebraska would insist upon his going to the United States Senate, and he has been urged by many for a still higher place. In the spring of 1889, Judge Thurston was prevailed upon to accept the Presidency of the Republican League of the United States, to which he was unanimously elected at the annual convention held at Nashville in March, 1890. His character and ability largely contributed to making this organization very strong; but he was obliged to inform the Executive Committee that it was impossible for him to retain the Presidency after the expiration of his term, owing to the

pressure of his professional engagements, and his resignation, after his most urgent solicitation, was reluctantly accepted at the Convention of the present year. He is very frequently called upon to speak in behalf of public charities and interests before moral, social, literary and political societies, to which he always responds with pleasure, and always delights and instructs. Among his fellow citizens throughout the State, but especially in the city of his home, he is held in the highest esteem as well on account of his position and simplicity of character, as for his generous public spirit. Manly, loyal and affectionate, he enjoys in a remarkable degree, the devoted love of his friends. There are many who are willing to administer to his fortunes. Besides these multitudes, there are some who are nearer to him, whom circumstances or personal relations have brought into the inner circle of his affections; whose devotion is never weary or relaxed.

It is not unreasonable to expect that Mr. Thurston, still a young man, will fill other high places in the land. If he does, he will bring to the service of the country a loyalty, a devotion, a wisdom, rarely to be found amongst those who aspire to public office.

The author recalls vividly the occasion of a speech by Judge Thurston at Des Moines, Iowa, during the Presidential campaign of 1884, when Cleveland and Blaine were the candidates. The great hall was crowded to its utmost capacity, and a surging mass of humanity seemed contending for space in which to stand. The speaker was enveloped in the enthusiasm of the cause for which he spoke, apparently oblivious to the expectancy 'round about him. His phraseology was charming, his delivery graceful and uniform, with the absence of tasteless mannerism, and for more than two hours the vast concourse remained spell-bound under the rich splendor of his matchless eloquence.

Few men in this generation, or any other, have thrown off the circumstances of birth, and overcome the disadvantages of youth and the deprivation of early culture and education, as has Judge Thurston. To thus subdue adversity almost superior to human effort, must be experienced to be fully comprehended. To such a youth vain praise is insipid, even repulsive, but that which comes from the heart's sincerity of friend or stranger, is as efficacious to his yearning ambition as an encouraging beck from a guardian angel. To all such the gratitude of a young man of this nature is as ceaseless as the flow of a perennial fountain, even though he be not blessed with the fruits of a golden harvest, or the just plentitude of a busy and toilsome life.







*Lyman Furbell*

## LYMAN TRUMBULL.

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THE subject of this sketch was born at Colchester, Connecticut, on the 12th of October, 1813. His parents were descendants of an ancestry sturdy and strong in stature, noble in generosity, rugged in integrity, brilliant in intellect, and his active life, covering a period of nearly eighty years, full of usefulness to the Nation, demonstrates the truth of the law of heredity.

His early education was received in his native town, at the Bacon Academy; but when he had arrived at the age of sixteen, like hundreds of great men, he was compelled to teach school to enable him to satisfy his own thirst for knowledge. Four years later he left his native State to take charge of an academy at Greenville, Georgia. While thus engaged he devoted all of his leisure time to the study of law, and in 1837, when twenty-four years old, was admitted to the practice of his profession.

Immediately after he had passed his examination he removed to Belleville, Saint Clair County, Illinois, where he opened an office. In three years his legal practice was interrupted for a time in consequence of his having been elected to the legislature, and his appointment to the office of Secretary of State before the expiration of his term in that body. He filled the latter position with distinction for two years, at the end of which time he again devoted himself to the practice of the law with wonderful assiduity, in a short period attaining the highest rank.

In 1848 he was elected one of the Associate Justices

of the Supreme Court of his State, under the revised Constitution, a striking recognition of his legal learning and ability. Four years afterward, in 1852, he was re-elected for the full term of nine years, but in 1853, he resigned this high office and resumed the practice of his profession. The opinions of Judge Trumbull, while on the Supreme Bench, are contained in four volumes of the Illinois Reports—from eleven to fifteen—and are remarkable for the clear, forcible and accurate manner in which his views are expressed, as well as for their correct interpretation of law.

Previous to his assumption of the judicial ermine, he had already won distinction in the practice, having appeared in many important cases throughout the State, but upon his resignation, and his appearance at the Bar again, his professional services were sought in almost every great suit, either as chief, or consulting counsel. But it was not ordained that Lyman Trumbull should continue the pursuits of private life, for the following year after his resignation as Associate Justice of the Supreme Court, he was elected to represent his district in the Lower House of Congress.

These were times of angry turmoil; the pro-slavery advocates had become very unpopular in the North; the fact that Stephen A. Douglas favored the repeal of the Missouri Compromise, had served to intensify the disturbed condition of political affairs, and notwithstanding the popularity he had hitherto enjoyed in the State of Illinois, he was no longer able to hold public sentiment at bay, and an anti-slavery Legislature was elected, and Lyman Trumbull, before taking his seat in the House of Representatives was sent to the United States Senate as a fitting colleague of the great champion of Democracy.

His early education, his long and efficient preparation and success at the Bar, his eminence as a jurist, his profound comprehension of Constitutional law,

sagacity, self-possession and logic ; the intrepidity of his nature and natural gift of oratory and argument, had bountifully equipped him for the discussion of the great questions of moment and concern, some of which had already shaken the very foundation of the Republic.

He took his seat in the Senate on the 4th of March, 1855. Prior to 1854, he had affiliated with the Democracy, but as the lines became drawn closer between the North and South, he joined the Republican party, just then founded on the ruins of the old Whig party.

Though eminent and useful in the Senate from the day he entered that august body, the culmination of all his powers did not come until the last twelve years of his service. His first term expired in 1861, and he was re-elected the winter previously by the unanimous consent of his party. His second term began at the breaking out of the Civil War, and at that perilous period in the history of the Republic, he was wisely selected Chairman of the Judiciary Committee, in which capacity he remained until the conclusion of his services in the Senate, twelve years later, and as such reported all the measures which emanated from that important Committee, many, especially those pertaining to Reconstruction, he drafted himself.

His long service commenced just before the close of President Pierce's administration, and continued throughout the administrations of Buchanan, Lincoln, Johnson and Grant down to 1873. The events of our National history during that period were the most momentous and important in character ; fraught with peril, and portentous of the destruction of a Republic which had become so marvelous in results and the wonder of all Monarchical powers. A large share of the credit due those Legislators for their efforts in bringing order out of chaos, must fall to Judge Trumbull, whose voice was ever raised for peace, liberty and justice. His speeches were always attentively listened to by his associates, and the wisdom of his

words heeded in many instances, when if he had not spoken, serious indiscretions by the too radical members of the party would have occurred.

During Senator Trumbull's term of service in the Halls of Congress, the anti-slavery sentiment fully developed; the Free-Soil party and its adjuncts merged into the Republican party. The Missouri Compromise was repealed; the Dred Scott decision followed; the Republican party triumphed in the Nation; the Great Commoner, Abraham Lincoln, was chosen President; Civil War was inaugurated; African slavery was abolished and peace restored by the victorious Union Armies.

After the assassination of President Lincoln, the Impeachment and trial of his successor, Andrew Johnson, was the next great event in the history of the United States; then came General Grant's elevation to the Presidency, the Thirteenth, Fourteenth and Fifteenth Amendments to the Constitution were adopted, and the whole country was agitated over Reconstruction.

In all these vexed questions which demanded the earnest consideration of the Senate, he was an active participant. When the war became a necessity, none more heartily supported all measures for its vigorous prosecution than Judge Trumbull, but was ever ready to welcome the return of peace on an honorable basis. In the record of Reconstruction legislation in the Senate, he always took a conservative and consistent attitude; never shirking from stringent measures if the highest wisdom seemed to demand it, but tempering his acts with mercy and tenderness when these were equally effective. As Chairman of the Judiciary Committee he had charge of Reconstruction measures; he drafted the Civil Rights bill, and as a substitute for Senator Henderson's Resolution he drafted the Thirteenth Amendment to the Constitution. In support of the Amendment, he made one of the ablest speeches ever delivered

in the Senate. As an exposition of his self-possession and imperturbability, during the excitement of those times, an extract from that speech as reported in the *Congressional Globe*, is here given :

“ It is a proposition so to amend the Constitution of the United States as forever to prohibit slavery within its jurisdiction, and authorize the Congress of the United States to pass such laws as may be necessary to carry this provision into effect.

“ Without stopping to inquire into all the causes of our troubles, and of the distress, desolation and death which have grown out of this atrocious Rebellion, I suppose that it will be generally admitted that they sprung from slavery. If a large political party in the North attribute these troubles to the impertinent interference of Northern philanthropists and fanatics with an institution in the Southern States, with which they had no right to interfere, I reply, if there had been no such institution there could have been no such alleged impertinent interference ; if there had been no slavery in the South there could have been no abolitionists in the North to interfere with it. If, upon the other hand, it be said that this Rebellion grows out of the attempt on the part of those in the interest of slavery to govern this country so as to perpetuate and increase the slave-holding power, and failing in this that they have endeavored to overthrow the Government and set up an empire of their own, founded upon slavery as its chief corner stone, I reply, if there had been no slavery there could have been no such foundation on which to build. If the freedom of speech and of the press, so dear to freemen everywhere, and especially cherished in this time of war, by a large party in the North who are now opposed to interfering with slavery, has been denied us all our lives in one-half the States of the Union, it was by reason of slavery.

"If these Halls have resounded from our earliest recollections with the strifes and contests of sections, ending sometimes in blood, it was slavery which almost always occasioned them. No superficial observer even, of our history North or South, or of any party, can doubt that slavery lies at the bottom of our present troubles.

"Our fathers who made the Constitution, regarded it as an evil, and looked forward to its early extinction. They felt the inconsistency of their position; while proclaiming the equal rights of all to life, liberty and happiness, they denied liberty, happiness and life itself to a whole race except in subordination to them. It was impossible, in the nature of things, that a Government based on such antagonistic principles, could permanently and peacefully endure, nor did its founders expect it would. They looked forward to the not distant, nor as they supposed uncertain period when slavery should be abolished, and the Government become in fact, what they made it in name, one securing the blessings of liberty to all. \* \* \*

"I know that the passage of this measure will not end this Rebellion. I do not claim that for it. There is but one way to do that; and that is by the power of our brave soldiers. We can never have the Union restored, the authority of the Constitution recognized, and its laws obeyed and respected, until our armies shall overcome and vanquish the Rebel Armies. We must look to our soldiers, to our patriotic Army, to put down the Rebellion. But, sir, when they shall have accomplished that, this measure will secure to us future peace."

Time, and a dispassionate review of that stormy period of Reconstruction has softened the angry sentiments which were uttered against those men who voted in the negative on the question of the President's guilt in the great Impeachment trial of nearly a quarter of a

century ago; Senator Trumbull differed with the Republican majority, voting in the negative with such men as William Pitt Fessenden, of Maine, than whom a purer man never sat in the Senate. As an unquestioned Republican authority, of the present day when one can see clearly the distant horizon, the following passage from James G. Blaine's "Twenty Years of Congress," will confirm the assertion made in the first portion of this paragraph, that Senator Trumbull and those who voted with him in the negative were correct in their views on the question :

"Mr. Fessenden, one of the ablest lawyers, if not indeed the very ablest that has sat in the Senate since Mr. Webster, believed on his oath and his honor, an oath that was sacred, and an honor that was stainless, that the President had a lawful and Constitutional right to remove Mr. Stanton at the time and in the manner he did. Mr. Trumbull, whose legal ability had been attested by his assignment to the Chairmanship of the Judiciary Committee, believed with Mr. Fessenden, as did Mr. Grimes of Iowa, one of the strongest members of the Senate, and Mr. Henderson of Missouri, whose legal attainments have since given him a high professional reputation."

This difference with the leaders of the Republican party, marks the starting point of the breach which continually widened until Senator Trumbull found himself acting with the Democratic party. A distinguished writer has been kind enough to state that : "Had Senator Trumbull remained in the Republican ranks it is probable that higher honors awaited him ;" but scarcely anything could have added to the renown of his long and illustrious career in the Senate.

In consequence of Judge Trumbull's liberal views on the leading questions agitating the country, in May, 1872, one year before his term in the United States Sen-

ate expired, the National Convention of Liberal Republicans assembled in Cincinnati for the purpose of nominating a candidate for the Presidency, in opposition to the regular Republican candidate, a large vote was given him for the nomination, and he doubtless would have been the nominee, but for the unfortunate differences existing between himself and Judge Davis of Illinois. Mr. Trumbull, however, was not a candidate and the strength manifested was due to the persistency of his friends and admirers throughout the country. Had he been a candidate the differences could have been amicably adjusted between himself and Judge Davis, doubtless, before the day set for the convention, indeed it is not generally believed Senator Trumbull knew that his name was under consideration; but as the matter stood, Horace Greeley was the successful candidate, and B. Gratz Brown of Missouri, was at the same time nominated by the Convention for the Vice-Presidency.

At the expiration of his term in the Senate Judge Trumbull resumed the practice of law in the city of Chicago, and for seventeen years has diligently and unostentatiously pursued his professional duties, appearing in many important cases, and connected with as many more. One of the most notable was that in which he was of counsel for Samuel J. Tilden in the Louisiana case before the Electoral Commission, in 1877.

In his retirement from political life he has strenuously objected to any proposition to re-enter it again, and has never aspired to any office since; but he submitted to the pressing importunities of his friends in 1880, and allowed his name to go before the Democratic Convention as a candidate for Governor of Illinois; he was nominated, and during the canvass he gave utterance to the first expression of his reasons for his abandonment of the Republican party, and it is only fair to him that it should appear here. He announced as a broad prin-

ciple that the Republican party of that day was not the Republican party of 1856-60; that those entrusted with the leadership of the party had led the great masses composing it astray; that he was not alone in the abandonment of the party; that within the ten years previous, many of the great Republican leaders had ceased to act with the party. He charged that the public money had been extravagantly wasted, especially during the second term of Grant's administration, and that Secretary Robeson had expended more than \$100,000,000 and had given us no better Navy than we had before a dollar was spent.

He stated that the Union could not have been saved without the assistance of the Democrats in the North, and introduced statistics showing the number which entered the service. He characterized as false the statement that the Republican party had suppressed the Rebellion, and had abolished slavery. The abolition of slavery, he averred, was the result of circumstances; that sixteen Democrats voted for the Thirteenth Amendment to the Constitution, and without thirteen of those votes the Amendment would not have carried. He charged fraud in the seating of President Hayes, commenting extensively upon the wrong perpetrated by the Electoral Commission, and to the fact that nearly every person in Louisiana and Florida who decided in favor of the Republican Electors had at some time during President Hayes' administration received a Federal appointment. He condemned the interference of the Federal Government in the elections by the appointment of a host of Marshals all belonging to one party, and charged that in the State of New York alone, thousands were illegally arrested and prevented from voting.

He further charged that the Republican party was in favor of Centralization, and unwilling to preserve that balance between the Federal and State Govern-

ments, which had been established by our fathers. All join in according to Judge Trumbull absolute sincerity in his political views, not only when in the Senate but for all time thereafter.

Judge Trumbull was married to Miss Julia M. Jayne, at Springfield, Illinois, on the 21st of June, 1843, when he arrived at the age of thirty years. By this marriage there are three sons, Walter, Henry and Perry; the two first named have grown to man's estate and are useful citizens. Perry is of the law firm of Trumbull, Willits, Robbins & Trumbull, composed of Lyman Trumbull, George S. Willits, Henry S. Robbins, Perry Trumbull and Charles L. Brooke.

On the 16th of August, 1868, Judge Trumbull received the severest blow of his life; his amiable and most exemplary wife, who had been the light of his soul and the crown of his happiness, for a quarter of a century, peacefully entered into eternity. Nine years later, on the 3d day of November, 1877, he was married a second time, at Saybrook, Connecticut, to Miss Mary J. Ingraham, a beautiful and accomplished lady, whose tenderness and amiability has shed its richest luster upon his household, and blessed his declining years with that tranquility which a long life of devotion to his country deserves. By this marriage he has one child, a daughter, living to add another charm to his happy home.

Judge Trumbull practices his profession, and may be seen daily on the street going to or returning from his office, and all those who have the honor of knowing him personally, are sure to receive a friendly greeting from the venerable statesman.

In recognition of his profound ability as a lawyer and a statesman, both McKendree and Yale Colleges have conferred upon him the Degree of LL. D.





*J. H. Bucker*

## JOHN RANDOLPH TUCKER.

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JOHN RANDOLPH TUCKER was born in Winchester, Virginia, on the 24th day of December, 1823. His father was Henry St. George Tucker, President of the Court of Appeals of Virginia, and Professor of Law in the celebrated University of that state. His mother was Miss Ann E. Hunter of the famous Virginia family of that name. His grandfather was St. George Tucker, the author of "Tucker's Blackstone;" and his grandmother Miss Frances Bland, the widow of John Randolph and the mother of John Randolph, of Roanoke. For this last mentioned remarkable and distinguished man in the councils of the United States, Mr. Tucker, the subject of this biographical sketch, was named.

Mr. Tucker began his education in the private schools of his native town; was transferred to the Richmond Academy to prepare for the higher courses, and in 1839, at the age of sixteen, entered the University of Virginia, at Charlottesville, where he took a classical, scientific, philosophical and mathematical course. He was especially distinguished while in the University for his excellent standing in the higher mathematics, and was graduated from there in the law in the summer of 1844, a few months before he had attained his majority.

At the beginning of the new year following his graduation he was admitted to the Bar at Richmond, where he remained in the practice of his profession for two years and then removed to Winchester, the town of his birth, to enter into partnership with the distinguished lawyer

of that place, Robert Y. Conrad. The firm remained intact until the summer of 1857, when Mr. Tucker was elected Attorney General of Virginia. One has said of him: "The training in his profession, which Mr. Tucker gained by his association with Mr. Conrad, was of inestimable importance to him in all his professional career. Mr. Conrad was a lawyer of extraordinary ability; with a mind subtile and acute in its analytic force, broad and profound in its generalization, and suggestive and fertile in its far-reaching speculations. Under his example and direction Mr. Tucker labored in a large and important practice with increasing interest in the study of jurisprudence."

In the month of October, 1858, Mr. Tucker was married to Miss Laura H. Powell, of Loudon county, Virginia. Of this marriage there survive several daughters and one son, the Honorable Saint George Tucker, who succeeded his father as Representative in the Lower House of Congress, from the Lexington District. The elder Tucker was elected for six consecutive terms, and the son has just been returned for the second time, almost without opposition, in the last election.

Mr. Tucker was elected Attorney General of Virginia in 1857, and succesfully re-elected to that important office, without opposition, until displaced under the Reconstruction policy of the new State Government, after the surrender of the Confederate forces by General Lee. Mr. Tucker's duties at the Bar of the State Capital in his official capacity were onerous and continuous; there were assembled the brightest legal minds of the whole Commonwealth, with whose possessors he was constantly brought into contact and engaged in forensic conflict before a Court whose judges were all men of marked learning and ability. He was very young, only thirty-four, when he entered upon the duties of his office, a remarkable recognition of the talents of a comparative

youth, where before the war, it had been the prevailing custom, amounting to a cherished tradition, to keep the "boys" in the background and put forward only those men who had arrived at the staid maturity of gray hairs and wrinkled visages. Happily this is all changed now in nearly all the States; in the West, particularly, youth combined with brains and talent is no longer a conclusive admission of ineligibility to office!

At the close of the Civil War, Mr. Tucker devoted himself diligently to the practice of his profession in Loudon county, in association with Major Burr P. Noland. In that particular region of Virginia the great struggle of arms had created the factors of an immense amount of litigation, growing out of Constitutional and International questions, and the leaders of the legal profession found a harvest at their hands in an immense field where the skilled laborers were few. But Mr. Tucker's education and his peculiar fitness for the determination of such cases as were certain to arise out of the existing state of affairs, brought the firm an immense amount of business, and its success in the trial of these new and complicated issues was marvelous.

During this same eventful period immediately after the restoration of peace between the two sections of our country, Mr. Tucker was associated with Charles O'Connor, of New York, William B. Reed, of Philadelphia, and Robert Ould, of Richmond, Virginia, as counsel for Jefferson Davis, who was indicted for treason against the United States. But the case never came to trial; the general amnesty, of Christmas day, 1878, relegating all such causes to oblivion.

In 1869, Mr. Tucker received a very flattering invitation from the great Baltimore & Ohio Railroad Company to accept a position in its large corps of counsel with headquarters at Baltimore, where the promise of success outside of the regular corporation work, at the

Bar of that city was almost an assurance. About the same time he was elected one of the Professors of law in Washington and Lee University at Lexington, Virginia, which was more suited to his personal tastes; in fact, in this particular, that curious law of heredity seems to have left its impress upon the mental character of Mr. Tucker. His ancestors for three generations, in a direct line had been Professors of law, and it is thus no wonder that the duties of the position he had been called upon to fill were so peculiarly congenial, or that he accepted the appointment without hesitation.

For four years he labored in the employment that was so congenial, when without his knowledge, and certainly without any desire on his part, he was nominated to represent the Lexington District, comprising twelve counties and the city of Staunton, in the Lower House of Congress. He was successively elected for six terms, but voluntarily retired from public life in 1887 to return to the practice of his profession which always had charms for him beyond anything that the sphere of politics offered, although he would undoubtedly have risen to more exalted positions than those he had occupied, if he had cared to continue in the whirl of the political maelstrom. He determined to settle in the National Capital, and opened an office there; but he was again elected to the Chair of Constitutional and International law in the Washington and Lee University, which position he holds to-day, engaged in the duties of his Chair, and employing his odd moments in writing a work on Constitutional law, which is to be the culmination of his years of study and research in his long life of devotion to the science of his profession. The presence of Mr. Tucker at the University has largely increased the number of its law students, who come from every State in the Union to be under his instruction. His intellectual endowments have made

him known throughout this country as a lawyer of the highest, broadest and noblest type.

Few men in the profession have brought to the study of the law a mind so carefully and thoroughly prepared for the severe and accurate examination and discernment of the principles which underlie all systems of jurisprudence. Few have so thoroughly digested or so scientifically set forth those principles. He comes of a race of eminent lawyers, and his whole mental organism is of that judicial character which enables its possessor to extract the marrow from the most complicated of causes, and to find the truth no matter what idol it may have to tear down in arriving at the concrete result. He possesses the power too, of thoroughly mastering the subject he investigates, a habit he early formed, if he did not possess the faculty intuitively. He is never daunted by difficulties or intimidated by possible dangers that may lurk in his subject. His mental energies were never enervated by day-dreams, or atrophied from disuse. His mind is always active; he is ever alert, energetic and enterprising, and this tireless activity, his insatiate craving for mental food, governed by an imagination carefully trained to serve as a vigilant scout, has resulted in a sound and discriminating judgment, and led him into the exploration of nearly every field of human thought. Yet he has never been a dawdler over books; he manages with a marvelous genius and a wonderful rapidity to extract the essence of the volume he takes up, without being delayed or obstructed by the array of words, and he quickly secures and stores away in his brain, ready to come forth for use at his mere bidding, whatever mental pabulum his extensive reading supplies to him. A striking and most valuable feature of this power is the facility with which a complicated mass of facts disintegrates under his magic touch, to be reformed in all their proper and exact relations, whenever he re-

quires their presence on the tablets of his memory, so that what was a confused and inarticulate heap of matter and color, perhaps, becomes as a beautiful tapestry, perfect in artistic form and in harmony of tint and texture. And so too, in the discernment and application of legal principles, appropriate to the case presented; no confusion of thought; no haziness of view; no perplexing doubt for a moment obscures the principle invoked. His perspicacity is unerring, and the exquisite training of his faculties induce an orderly method of argument, in such sort that the conclusion reached appears too obvious to be disputed.

This is conspicuous in the lecture room, where, as a teacher of law, Mr. Tucker unveils the difficulties of the science with such clearness and order, as to encourage and stimulate the student by the ease with which his attention is rewarded. So at the Bar, his arguments impress all who hear them with their soundness and their strength. His mind is eminently analytic. It appears to contain some potent solvent by which all matter brought within its reach is reduced to its original elements. Sophistry cannot evade, nor fallacy elude the touch of his Ithuriel spear. In the discussion of Constitutional questions in Congress and at the Bar, he has applied this power with great effect.

Mr. Tucker came to the Bar munificently equipped for the successful discharge of its varied and exacting duties. A disposition and temper of mind that made association with him in any relation, a positive pleasure, softened the asperities of forensic controversy, made pleasant the paths of judicial investigation, and charmed the jurors into forgetfulness of their enforced contributions of time and patience to the cause of justice. With the "fascinating eye" of Scarlett and the wondrous charm of voice and feature, that made Erskine nearly irresistible, before court and jury, Mr. Tucker, from his earliest

life has fastened to himself the companions of his boyhood, youth and maturer years. But behind the beauty of countenance, the musical voice, the winning manner and the irrepressible flow of delightful humor and sparkling wit, resided the more substantial virtues of a spirit that never feared the face of man, that defying temptation and despising intimidation, opposed to all alluring influences, an integrity that cannot be corrupted, a broad and robust charity that envieth not, that vaunteth not itself, is not puffed up, that thinketh no evil, rejoiceth not in iniquity, but rejoiceth in the truth. Unselfishness and disinterestedness have characterized his observance of all the relations of life.

He has never sought personal preferment, has never by any means sought to procure nomination or appointment to office, has never in a long and brilliant professional career allowed the hope of pecuniary gain to operate in any degree as a stimulus to activity or endeavor.

While in Congress, Mr. Tucker spoke several times on the tariff, and in two of these speeches furnished much of both the matter and the argument which has formed the staple of very many of the speeches delivered in the Hall of Representatives since that time. His first speech on this subject was in 1878, and in reply to General Garfield, who always professed the warmest admiration and affection for him. His other most striking speeches while in the House, were, perhaps, on the Chinese Question and on Troops at the Polls.

From 1883 to 1887, Mr. Tucker was Chairman of the Judiciary Committee of the House; for eight years a member of the Committee of Ways and Means, and for a short period its Chairman. His duties as Chairman of the Committee were very arduous; while filling that position he prepared and reported the law enlarging the jurisdiction of the Court of Claims; he also prepared and

reported to the House what is known as the "Edmunds-Tucker Bill," which had for its purpose the disestablishment of the Mormon Church, that special provision of the bill being an amendment proposed by Mr. Tucker, as the measure came from the Senate, and the whole bill was pressed and ably argued before the House with a remarkable success by Mr. Tucker. In all questions which came before the Judiciary Committee during the many years that he was either a member or its Chairman, Mr. Tucker invariably took a leading part; and his reports on many vital questions, such as those pertaining to the suppression of polygamy, the treaty-making power, criminal procedure, and others of like nature, involving great Constitutional problems, he evinced his indefatigable industry, and his taste for that higher and complicated department of the law.

In his speech of January 23, 1877, on counting the Electoral votes; in that delivered on the 4th of April, 1879, on "Elections by the People must be Free from the Power and Presence of the Standing Army;" his argument of the Florida Case with Mr. David Dudley Field, and his elaborate discussion of the whole question involved in the Electoral Commission Bill; his arguments before the Supreme Court of the United States in a case growing out of the adjustment of the public debt of Virginia, and in the Anarchists Cases, his argumentative and forensic power was applied with great effect, and was the subject of admiring comment.

Various monograms on different subjects illustrate the range and variety of his thought, the thoroughness of his research, and the freshness and vigor of his treatment. In August 1888, he read a paper before the American Bar Association at Saratoga, on "Congressional Power over Interstate Commerce," and in April of that same year, he delivered at Marietta, Ohio, on the occasion of the celebration of the Centennial of the

founding of the Northwest, an oration of striking excellence. In October, 1888, he delivered an address before the Centennial Meeting of the Presbyterian Synod of Virginia, on the "Influence of Presbyterian Polity on Civil and Religious Liberty in Virginia," which is cherished as a paper of priceless value to the history of the Church and State.

In June, 1851, when only in his twenty-seventh year, he delivered before the Society of the *Alumni* of the University of Virginia, an address, in which he maintained the existence of the right of a State to secede from the Union, while declaring at the same time that: "I do not mean to suggest, much less to advocate the propriety of its exercise, either now, or under any future possible contingency." But so powerful in its logic, so clear and strong in its historical premises, and so sound in its philosophical treatment, was this discussion of a question, then but the subject of only rare and speculative interest, that it became thenceforth the text-book of that school of politics in the country.

As is the case with all other of the eminent lawyers in Virginia, Mr. Tucker's practice has been confined almost entirely to the State Courts of that State, for only on very rare occasions have cases from that ancient Commonwealth found their way to the Federal Courts, but while the present generation of men last in that State, will the memory of the forensic efforts of John Randolph Tucker be preserved and cherished, and his wonderful purity of character be held up as worthy of emulation by the youth of the land.

Mr. Tucker's social side as a wit, a story-teller and a genial friend is proverbial; no dinner-table during his ten years residence in Washington, says a warm friend, was complete without the presence of John Randolph Tucker. The wonderful purity of his life is a beautiful illustration of what a gentleman should be; no one has

ever heard him utter an oath ; seen him other than courteous, or do any act unworthy of a Christian.

This cannot be said, alas ! of so many. Few are thus evenly tempered. The exemplary traits of the human character possessed by Mr. Tucker, and so manifest in his daily life, are the priceless gifts of a merciful Creator to his children, and he who yields not to the temptations which would destroy them, has surmounted the obstacles to success, and conquered a power as strong as human fate.







*H. W. Vorhees*

## DANIEL WOLSEY VOORHEES.

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DANIEL WOLSEY VOORHEES, "The Tall Sycamore of the Wabash," by which title he is often referred to, because of his tall, erect and large form, distinguished and commanding appearance, is ranked among America's most famous jury lawyers.

He was born in Ohio on the 26th of September, 1827, but when an infant his parents emigrated to Indiana, and he has since made that state his home. He was educated at DePauw University, at Greencastle, Indiana, from which institution he was graduated in 1849. He immediately entered upon the study of the law, was admitted to the Bar two years later, in 1851, and began to practice his profession in the town of Covington. Mr. Voorhees rapidly rose in the line he had chosen, and in less than eight years had acquired a National reputation as one of the most effective men before a jury in the whole country, and his practice as wide as his reputation.

In 1856 he began his political career by becoming the Democratic candidate for Congress, but was defeated. Two years afterward he was appointed United States District Attorney for Indiana, which office he held until 1861. That year he was chosen to represent his district in Congress, where he served continuously for five years, when his seat was successfully contested by Henry D. Washburn. In 1869 he was again elected to the House, of which he remained a member for two terms. While there, he served on the Committees of the Judiciary, Elections, Appropriations, Revision of the Laws and

Pacific Railroad. In 1877 he was appointed to fill a vacancy in the United States Senate caused by the death of Oliver P. Morton, and at the meeting of the Legislature was elected for the unexpired term, and also for the full term commencing on the 4th of March, 1881. In 1885 he was again elected, and also in 1891, for the term ending 1897.

After the attempted raid of John Brown, in Virginia, in 1856, Mr. Voorhees was sent to that Commonwealth by Governor Ashbel P. Willard, of Indiana, to defend John E. Cook, who had been arrested for participation in the attempts of John Brown, and was to be tried for his life. Cook was a brother-in-law of the Governor; his indictment reciting, treason, murder and inciting slaves to rebel.

Cook confessed the crimes of which he was charged, and there was nothing for his eloquent defender to do but make an appeal in mitigation of sentence, the penalty of the crime being death. That appeal is one of the most touching and pathetic in all the annals of our American jurisprudence, and may also be considered as a masterpiece of the great lawyer. The last words, the leave-taking with jury, if it may be so termed, as the case was closed by Mr. Voorhees' is here presented as a model of eloquence and pathos:

"Gentlemen of the Jury, the place I occupy in standing before you at this time is one clothed with a responsibility as weighty and as delicate as was ever assigned an advocate in behalf of an unfortunate fellow-man. No language that I can employ could give an additional force to the circumstances by which I am surrounded, and which press so heavily on the public mind as well as on my own. I come, too, as a stranger to each one of you. Your faces I only know by the common image we bear to our Maker; but in your exalted character of citizens of the ancient and proud Commonwealth

of Virginia and of the American Union, I bear to you a passport of friendship and letter of introduction. I come from the sunset side of your western mountains, from beyond the rivers that now skirt the borders of your great State; but I come not as an alien to a foreign land, but rather as one who returns to the home of his ancestors and to the household from which he sprang. I come here not as an enemy, but as your friend with interest common with yourselves, hoping for your hopes, and praying that the prosperity and glory of Virginia may be perpetual. Nor do I forget that the very soil on which I live in my Western home was once owned by this venerable Commonwealth, as much as the soil on which I now stand. Her laws there once prevailed, and all her institutions were there established as they are here. Not only in my own State of Indiana, but also four other great States in the Northwest, stand as enduring monuments of Virginia's magnanimity and princely liberality. Her donation to the General Government made them sovereign States, and since God gave the fruitful land of Canaan to Moses and Israel, such a gift of present and future empire has never been made to any people. Coming from the bosom of one of these States, can I forget the fealty and duty which I owe to the supremacy of your laws, the sacredness of your citizenship, or the sovereignty of your State? Rather the child forget its parent, and smite with unnatural hand the author of its being.

"I am not here gentlemen in behalf of this pale-faced, fair-haired wanderer from his home and the paths of duty to talk to you about the cold technicalities of the law born of laborious analysis by the light of the midnight lamp. I place him before you on no such narrow grounds. He is in the hands of friends, who abhorred the conduct of which he has been guilty. But does that fact debar him of human sympathy? Does the sinful act smite the

erring brother with the leprosy, which forbids the touch of the hand of affection? Is his voice of repentance, an appeal for forgiveness, stifled in his mouth? If so, the meek Saviour of the world would have recoiled with horror from Mary Magdalene, and spurned the repentant sorrow of Peter, who denied him. \* \* \*

“For my client I avow every sympathy. If He who made the earth, and hung the sun, moon and stars on high, to give it light, and created man a joint heir of eternal wealth, and put within him an immortal spark of that celestial flame which surrounds His throne, could remember mercy in executing justice, when His whole plan of divine Government was assailed and deranged; when His law was set at defiance and violated; when the purity of Eden had been defiled by the presence and counsel of the serpent—why, so can you, and so can I, when the wrong and the crime stand confessed, and every atonement is made to the majesty of the law, which the prisoner has in his power to make. \* \*

“Gentlemen, you have the case. I surrender into your hands the issues of life and death. As long as you live, a more important case than this you will never be called to try. Consider it, therefore, well in all its bearings. I have tried to show you those facts which go to palliate the conduct of the prisoner. Shall I go home and say that in justice you remembered not mercy to him? Leave the door of clemency open; do not shut it by wholesale conviction. Remember that life is an awful and sacred thing; remember that death is terrible, terrible at any time and in any form. But when to the frightful mien of the grim monster, when to the chilled visage of the spirit of the glass and scythe, is added the hated, dreaded spectre of the gibbet, we turn shuddering from the accumulated horror. God spare this boy and those that love him, from such a scene of woe. I part from you now, and most likely forever. When we next meet

—when next I look upon your faces and you on mine—it will be in that land and before a tribunal where the only plea that will save you and me from a worse fate than awaits the prisoner, will be mercy. Charity is the paramount virtue; all else is a sounding brass and a tinkling cymbal. Charity suffereth long and is kind. Forbid it not to come into your deliberations; and, when your last hour comes, the memory that you allowed it to plead for your erring brother, John E. Cook, will brighten your passage over the dark river and rise by your side as an interceding angel on that day when your trial, as well as his, shall be determined by a just but merciful God. ”

In the trial of Mary Harris, a most absorbing and romantic case, in which the girl was accused of shooting the man who deserted her, Mr. Voorhees' speech in her behalf is a splendid and magnificent appeal to the heart, and during its delivery, which occupied two hours, the audience wept like children, strong men and women alike, so affected were they by the pathos of the eloquent advocate. In that portion of his speech where he says, “and delicate flowers from the loftiest station in the world have mingled their odor with the breath of her captivity,” referred to a beautiful bouquet sent by President Lincoln, in the center of which was a flower, that in the botanical reading meant: “Trust in me.” The closing of the speech, in which Mr. Voorhees described the depth and affection of a young girl when her heart is truly given to a man, is here presented, as portrayed by him:

“Yes; though poor and humble, yet she loved and was beloved, and it was enough; she was content; for in that hour, when a virtuous woman feels for the first time that she possesses the object of her devotion, there comes to her a season of bliss which brightens all the earth before her. The mother watching the sleeping babe has an exclu-

sive joy beyond the comprehension of all hearts but her own. The wife who is graced by her husband's love is more beautifully arrayed than the lillies, and envies not the diadems of queens. But to the young virgin heart, more than all, when the kindling inspiration of its first and sacred love is accompanied by a knowledge that for it in return there burns a holy flame, there comes an ecstasy of soul, a rapturous exaltation, more divine than will ever again be tasted this side of the bright waters and perennial fountains of paradise. The stars grow brighter, the earth more beautiful, and the world for her is filled with delicious melody. This, peculiarly, is woman's sphere of happiness. There she concentrates all her wealth, the unsearchable riches of her heart, and stakes them all upon the single hazard. If she loses, all is lost; and night and thick darkness settle down upon her pathway. It is not so with man. His theatre is broader. No single passion can so powerfully absorb him. A variety of interests appeal to him at every step. If disappointment overtakes him, a wide and open horizon invites him to new enterprises, which will relieve him of that still, deep, brooding intensity which is the pregnant parent of woe, insanity and death to woman. \* \* \*

"Alas! how often the great rules of right—eternal and unchangeable right—are perverted in man's administration of justice! How often the accused should be the accuser! How often the offending sufferer bears the punishment due alone to others! What a scene is this in which we are all engaged! Here, before you, sits one of the feeblest and saddest beings ever born of woman, a mere helpless atom, buffeted and driven here by angry and malignant winds. The babe in its mother's arms was never more unconscious of the evil purposes of crime, than the heart of this pale and wasted prisoner. Yet the freezing terrors of the law surround her on all sides; the judge upon the Bench, with wise and patient

calmness elucidating its principles; this jury, listening to the story of her blighted life, and solemnly weighing the evidence; the crowded and anxious audience watching the result; and men, bearded men, earnestly discussing the issue, whether she may live or die! And why all this? Because, as she said to you (turning to Mr. Bradley,) 'I have been beaten and scourged without cause.' Yes; bruised, maimed and mangled, until the divine gift of human reason gave way, utterly powerless, with less than the instinct of the poorest worm that resents in blindness the heel that tramples it in the dust. And yet this is the being against whom we are to listen to a hue and cry as if she were a monster, a Borgia, or a Hecuba!

"No; and hence we see her mind developing its changes in equal pace with her body. It is the seat of the canker, which blighted her whole system, and which no medicinal balm can reach. There was lodged that perilous stuff which no drug can purge from the distracted breast. According to the evidence, she was up to that period the merriest and most joyous of her circle. The world, the glad earth, the opening day, the bending sky, and the kind faces of friends, were all beautiful to her, and she enjoyed the few years of her unclouded happiness. But now the laugh was gone; no merriment kindled in her eye; the future to her was dead; she lived in the past and it was the charnel-house of all her hopes, and over it hung the mourning cypress. I am reading her condition to you by the light of the evidence alone. I am showing you that effects were following causes. She grew weary of life. Who does not, when all that gives life its value has perished? This is, in itself, one of the incipient stages of insanity. It is the offspring of that "Black Melancholy" which all authors designate as one of the parent springs of madness. And when this defendant rose that morning from her bed, and

murmured her farewell to the friend, whom she supposed to be asleep, had she succeeded in taking her 'walk by the lake shore,' in the darkness before daybreak, she never would have been here on trial. The wind and waves would have sung her requiem. There might have been an inquest, and the usual verdict. \* \* \*

"She has suffered more already than the King of terrors in his most frightful form can inflict. If she had been broken on the wheel, her limbs disjointed, and her flesh torn in piecemeal by the most fiendish skill of the executioner, her torture would have been merciful compared to the racking which sunders into fragments the immortal mind. There is no arrow in Death's full quiver that can give this young breast a new sensation of agony. She has sounded all the depths and shoals of misery and pain. \* \* \*

"Gentlemen, I sometimes tire of life when I see wrong and injustice spreading their prosperous branches as the green and flourishing palm; when those by whom offenses come into the world, who prey upon virtue and turn it into vice, who sport with innocence in order to poison it, who make a mockery of love and a plaything of truth, go not only unscathed of the law, but even applauded by the hired panderers to a depraved and debauched public sentiment. Whatever of philosophy I have takes a painful and gloomy form, and I feel that I could say with the great dramatist:

"Out brief candle,  
Life's but a walking shadow; a poor player  
That struts and frets his hour upon the stage,  
And then is heard no more; a tale told by an idiot,  
Full of sound and fury, signifying nothing."

"When you are discharged from your protracted confinement and return to your homes, as you will in a few hours, ask those whom you meet there, whether they desire you to cut the feeble thread of this girl's life by your

verdict. I will abide by their answer. To no one has she appeared as the criminal, save to those who conduct and inspire the prosecution. To all others in your midst she has presented the sad spectacle of calamity and misery. Her purity, her gentleness, her guileless truth, shining out in every word and act, have won to her side in this dark hour, your oldest, your best, and most honored citizens. Her prison abode has been brightened by the presence of the noblest and purest of her own sex, and delicate flowers from the loftiest station in the world have mingled their odor with the breath of her captivity.

“Men venerable in years, and strong in their convictions of the principles of immutable right, have been drawn to her assistance by an instinctive obedience to the voice of God commanding them to succor the weak, lift up the fallen, and alleviate the distress of innocence. And now for Mary Harris, and in the name of Him who showered his blessings on the merciful, who spoke the parable of the Samaritan, who gave the promise to those who feed and clothe the stranger at their gates, and who visit the sick and them that are in prison, I thank the people of the Capital. Add one more obligation for her to remember, until the grave opens to hide her from the world. It is in your hands to grant. The law, in its grave majesty, approves the act. The evidence with an unbroken voice demands it. Your own hearts press forward to the discharge of a most gracious duty. The hour is almost at hand for its performance. Unlock the door of her prison, and bid her bathe her throbbing brow once more in the healing air of liberty. Let your verdict be the champion of law, of morality, of science. Let it vindicate civilization and humanity, justice and mercy.

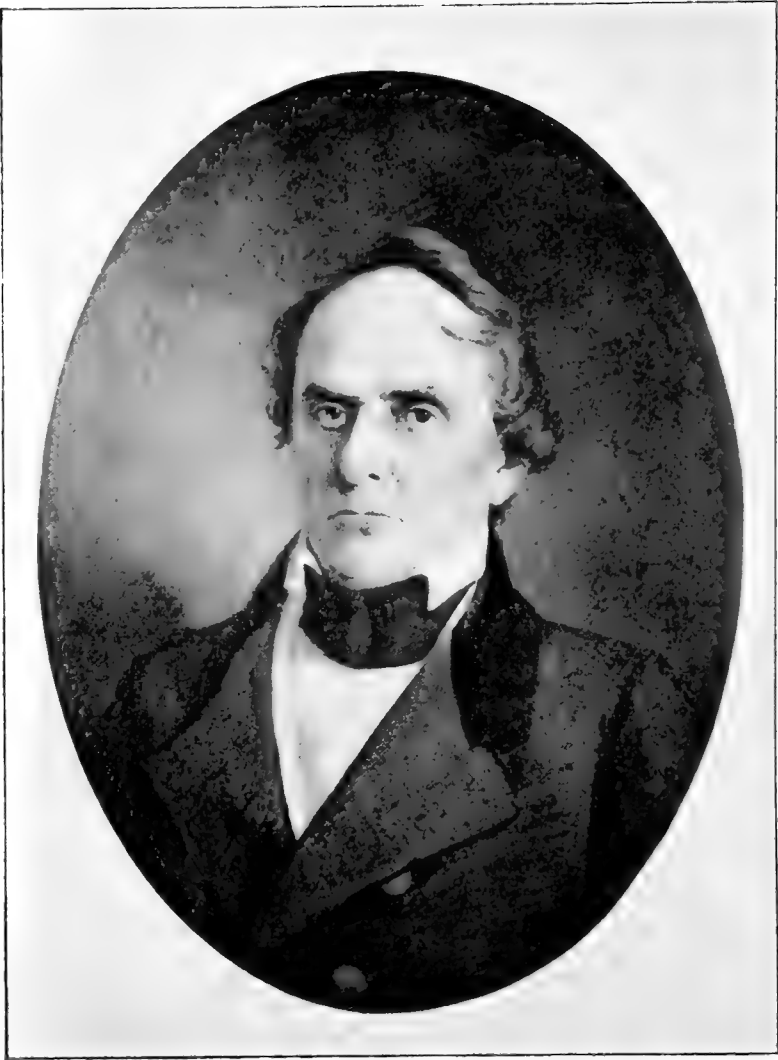
“Appealing to the Searcher of all hearts, to that Omnipresent eye which beholds every secret thought, for the integrity of my motives in the conduct of this cause,

and for the sincerity of my belief in the principles which I have announced, I now, with unwavering confidence in the triumph of innocence, surrender all into your hands."

The power of Mr. Voorhees before a jury, consists in his inimitable sympathy with the case of his client; he is able to make the most passive individual shudder or, if necessary, he can become as tender and compassionate as a maiden, whose soul has been thrilled with its first breath of love. His style varies with the case for which he pleads—now vehement, now soft—and his voice and gestures becoming to the nature of his subject. Much that he has spoken to the jury in his celebrated cases is unparalleled for its beauty and force, within the whole range of forensic eloquence.







*Daniel Webster*

## DANIEL WEBSTER.

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THE ancestors of this distinguished jurist and statesman settled on the coast of New Hampshire a short time after the landing of the Pilgrims at Plymouth Rock. His father, Ebenezer Webster, in consequence of the primitiveness of the region where he lived, was of the same hardy mould as our famous frontiersmen of the last generation. His appearance, as described forty years ago by those who then remembered him well, was that, "he was erect, of athletic stature, six feet high, broad and full in the chest."

In his youth he enlisted as a soldier in a famous company of Rangers, in which he did excellent service under Sir Jeffrey Amherst and Wolfe in the Revolutionary War, rising to the rank of Captain before its close. When the end of the long conflict came, grants of land were given in the remote wilderness of the Merimac river, and Captain Webster received his allotment, settled down, and there on the 18th of January, 1782, his distinguished son, Daniel, was born.

In a speech delivered at Saratoga, New York, in 1840, Daniel Webster thus feelingly alluded to the place of his birth :

"It did not happen to me to be born in a log-cabin, but my elder brothers and sisters were born in a log-cabin amid the snow-drifts of New Hampshire, at a period so early that, when the smoke first rose from its rude chimney, and curled over the frozen hills, there was no similar evidence of a white man's habitation between

it and the settlements on the rivers of Canada. Its remains still exist. I make to it an annual visit. I carry my children to it to teach them the hardships endured by the generations which have gone before them. I love to dwell on the tender recollections, the kindred ties, the early affections, and the touching narratives and incidents, which mingle with all I know of this primitive family abode. I weep to think that none of those who inhabited it are now among the living; and if ever I am ashamed of it, or if I ever fail in affectionate veneration for him who reared and defended it against savage violence and destruction, cherished all the domestic virtues beneath its roof, and, through the fire and blood of seven years' Revolutionary war, shrunk from no danger, no toil, no sacrifice, to serve his country, and to raise his children to a condition better than his own, may my name and the name of my posterity be blotted forever from the memory of mankind."

The boy's chances for education were, of course, very limited in that out-of-the-way settlement, and are thus described by one of Mr. Webster's earlier biographers: "Something that was called a school was kept for two or three months in the winter, frequently by an itinerant, too often a pretender, claiming only to teach a little reading, writing and "ciphering," and wholly incompetent to give any valuable assistance to a clever youth in learning either."

His father, encouraged by the wise prevision of his excellent wife, who saw the promise of future greatness in her son Daniel, after the boy had learned all that could be gathered out of the migratory pedagogues who taught during the winter, determined to send him to Phillips Academy, in Exeter, New Hampshire, which venerable institution to-day, as then, ranks as one of the best in the country.

In May, 1796, Mr. Webster was entered as a pupil,

but remained only a few months, at the end of which time he was placed under the tutelage of the Reverend Samuel Wood, the pastor of a neighboring town to his own home, where he was prepared for college, at a cost to his father of one dollar a week for board and tuition ! He remained with Mr. Wood for six months, completing his preparation for Dartmouth in that time. It was while *en route* to Mr. Wood's with his father, that young Daniel first knew that he was to be sent to college. Of this exciting moment Mr. Webster thus writes in an autobiographical sketch of his boyhood: "I remember the very hill which we were ascending, through deep snow, in a New England sleigh, when my father made known this purpose to me. I could not speak. How could he, I thought, with so large a family and in such narrow circumstances, think of incurring so great an expense for me. A warm glow ran over me, and I laid my head on my father's shoulder and wept."

In 1797, Mr. Webster entered the Freshman class at Dartmouth, and remained the whole required four years, and was distinguished for his assiduous study. During the vacations, he too, which seems to have been the fate of all great men while completing their college course, taught school to aid his worthy father in paying the expenses of his education.

Strange as it may seem to those who know Mr. Webster in history as one of the foremost orators of modern times, in his school days, and particularly while at the Exeter Academy, he could not declaim at all. Of this fact, he says himself in his autobiography: "I believe I made tolerable progress in most branches which I attended to while in this school, but there was one thing I could not do. I could not make a declamation. I could not speak before the school. The kind and excellent Mr. Buckminster sought especially to persuade me to perform the exercise of declamation, like other boys, but

I could not do it. Many a piece did I commit to memory, and recite and rehearse in my room, over and over again; yet when the day came; when the school collected to hear declamations; when my name was called, and I saw all eyes turned to my seat, I could not raise myself from it. Sometimes the instructors frowned; sometimes they smiled. Mr. Buckminster always pressed and entreated most winningly, that I would venture. But I never could command sufficient resolution."

In August, 1801, Mr. Webster bade farewell to his *alma mater*, and commenced the study of the law with his father's immediate neighbor, Mr. Thompson, "who was a gentleman of education and intelligence, and, at a later period, a prominent member, successively, of the House of Representatives and Senate of the United States."

In Mr. Thompson's office the young aspirant for a legal education remained until, in the words of one of his biographers, "he felt it necessary to go somewhere and do something to earn a little money." He was offered a dollar a day to take charge of an academy at Fryeburgh, Maine, which he gladly accepted, and upon going there, found that he could make his board and his other necessary expenses by assisting the Register of Deeds in his office, thereby enabling him to save his entire salary, which he put aside for his own education and that of his favorite brother Ezekiel, for whom he had the most profound fraternal regard.

In the following September Mr. Webster returned to Salisbury, and renewed his law studies under Mr. Thompson, where he remained for a period of eighteen months. While there he was directed by his preceptor to read Coke's Littleton, before he read Blackstone; this practice Mr. Webster condemned in the following language, years afterward: "A boy of twenty, with no previous knowledge of such subjects, cannot understand

Coke. It is folly to set him upon such an author. There are propositions in Coke so abstract, and distinctions so nice, and doctrines embracing so many distinctions and qualifications, that it requires an effort not only of a mature mind, but of a mind both strong and mature to understand him. Why disgust and discourage a young man by telling him he must break into his profession through such a wall as this?"

In July, two years later, Mr. Webster took up his residence in Boston, but before entering upon the practice, he read for eight months longer under the tutelage of the Honorable Christopher Gore. Mr. Gore became Governor of the Commonwealth, was a fine lawyer, had passed several years in England as a Commissioner under the Jay Treaty for determining the claims of United States citizens arising out of the early wars of the French Revolution. He possessed a rare library, to which his young student had free access, and, as Mr. Webster himself declared, that period of his life was one of the most pleasant.

In the spring of 1805 Mr. Webster was admitted to the Bar in the Suffolk Court of Common Pleas, and two years later, as an attorney and counselor of the Superior Court of New Hampshire. In September of that year he removed to Portsmouth, his original plan, where he opened an office and practiced there for nine successive years.

Of all the distinguished lawyers practicing at the Portsmouth Bar, Jeremiah Mason was the most eminent, with whom Mr. Webster soon divided the principal business of all the Eastern portion of the State. He was retained in nearly all the important cases on the circuit, following the Court through all the counties, in every one of which, the Superior Court, of course, had jurisdiction. A remarkable fact, for one so young, and which stamps him as a great lawyer is the statement,

which the court records confirm, that, except when he was assisting the Attorney General of the United States, he does not appear in more than a dozen cases as junior counsel.

Although he appears to have risen at once to the head of his profession, his causes did not enrich him, for the reason that clients were not wealthy, nor were great suits to be litigated, as to-day, growing out of large corporation differences; there were no railroads, or anything comparable to the immense manufacturing concerns that are the creations of the last fifty years, so while he had a large business, he managed to make only a decent living.

Up to the year 1812 Mr. Webster had taken very little active part in politics, less than history shows has usually been the case with men of Mr. Webster's unusual talent in their youth. In that year war had been declared against England, but previously Mr. Webster, in a public address giving an impartial view of the strained foreign relations of the United States, said: "Nothing is plainer than this: If we will have commerce, we must protect it. This country is commercial as well as agricultural. Indissoluble bonds connects him who plows the land with him who plows the sea. Nature has placed us in a situation favorable to commercial pursuits, and no government can alter the destination. Habits confirmed by two centuries are not to be changed. An immense portion of our property is on the waves. Sixty or eighty thousand of our most useful citizens are there, and are entitled to such protection from the Government as their case requires."

At the election after the declaration of war, in November, 1812, Mr. Webster was chosen by the Federal party to represent it in Congress, and took his seat at the extra session of the thirteenth assembling of that body, which was called by the President in May, 1813.

His reputation had preceded him to Washington, and Henry Clay, who was Speaker of the House, placed Mr. Webster upon the Committee of Foreign Affairs, a select committee at that particular juncture, and, of course, the most important Committee in the House.

In less than a month after having taken his seat, on the 10th of June, Mr. Webster delivered his first speech in Congress; no report of what he said on that occasion has been preserved, but its effect upon those who heard it is a matter of history: "It took the House by surprise; the age and experience of the speaker had prepared its members for no such display, and astonishment for a time subdued the expression of its admiration. No member ever riveted the attention of the House so closely in his first speech. Members left their seats, where they could see the speaker face to face, and sat down or stood on the floor fronting him. All listened attentively and silently, during the whole speech; and when it was over, many went up and warmly congratulated the orator." Chief Justice Marshall, writing to a friend some time after this speech, says: "At the time this speech was delivered I did not know Mr. Webster, but I was so much struck with it that I did not hesitate then to state that Mr. Webster was a very able man, and would become one of the very first statesmen in America, and the very first, perhaps."

From that time, with the exception of a hiatus of five or six years, Mr. Webster occupied the foremost position in the Halls of Congress, or in connection with public affairs, until his death, which occurred in 1852. During those years in which he took no part in the councils of the Nation, he was engaged in the vigorous practice of his profession in Boston, to which place he had removed after the end of the Fourteenth Congress, and it was then, while a member of the famous Suffolk Bar, that he reached his great fame as a lawyer, and the

record of his cases show them to have been among the most celebrated in the history of the country's jurisprudence.

It is perhaps not necessary to make any apology for not presenting a more elaborate review of Mr. Webster's life; his fame is emblazoned in the archives of the Nation, and no student of American history can frame any excuse for not familiarizing himself with the public career of this great lawyer and statesman.







*Jm Wirt*

## WILLIAM WIRT.

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**I**N the life of this distinguished American are blended a happy combination of the profound lawyer with the man of letters. A union of talent which has not been infrequent in the career of many of our great jurists and advocates.

William Wirt was a distinguished citizen of two States, and while the State in which he was born has, perhaps, the prior right of claiming him as one of her sons, he is best known as a Virginian, in which Commonwealth he made his home for the major portion of his life, returning to the State of his nativity only a few years before his death.

In Bladensburg, Maryland, on the 8th of November, 1772, he was born. A place at that time of considerable importance, and where his father, who was a Swiss immigrant, kept a tavern or inn, as it was called in those days. William was the youngest child of the family, and when he arrived at the age of two years unfortunately lost his father. His mother was a German and six years later she died, when the young orphan was taken care of by an uncle, who seems to have had a special regard for the boy's education, as he sent him to the best schools the State afforded.

At eleven he was placed under the tuition of the Reverend James Hart, a Presbyterian clergyman, who kept a grammar school in Montgomery county, where he remained for four years. During the last half of his term at the Academy, he resided with the family of the

principal, and it was then he developed that love for reading and general literature, which ever after was a marked characteristic. The Academy possessed a very fair library of English literature, comprising the works of the standard authors, Pope, Smolett and Addison, for whose writings he always had a special admiration.

Composition and declamation were a part of the school's curriculum, and as usual, Friday, was the portion of the week devoted to forensic culture. Young Wirt early developed his ability in the line of English composition and his first attempt of which there is any record, was during his pupilage at the Reverend Mr. Hart's academy. It was an essay: "On the Unhappy Peculiarities of the Usher," and was recited in the school, by a brother scholar. Here too, he seems to have had some liking for the profession in which he afterward became eminent, as his own initial attempt in the forum of the school, was a trial in imitation of those he had witnessed in the court house of the county in which the academy was situated.

The academy was shortly disrupted from some cause and young Wirt was now left to struggle for himself. He was only fifteen when this circumstance which changed his whole course of life occurred, but he must have been not only an exemplary scholar but a boy who had endeared himself to his schoolmates by his personal qualities, for we find that he was invited to go home with one of his classmates, who had evidently carried good reports of him to the family, and he was duly installed as tutor.

The estimable gentleman who at this juncture befriended the homeless boy, was a man of education and a lawyer, as well as a prominent legislator in the councils of the State of Maryland. Young Wirt soon became, by his excellent qualities and his sterling deportment, to be looked upon as one of the family, and the

feeling was reciprocated, as he regarded his benefactor as a father, and remained with him two years.

Under Mr. Edwards careful tuition he prepared himself for the study of law, and shortly after he left home for Virginia, where he completed his studies and was admitted to practice at Culpepper Court House, in 1792, at the age of twenty, and at this place he took up his residence. It was not very long before he had acquired a fair village practice. He was received by the old members of the Bar of that portion of Virginia with the urbanity and grace which characterized the old-school gentleman, and soon extended his acquaintance to the neighboring counties where he was also received with much courtesy.

In 1795, three years after he entered the State, he was married to the beautiful daughter of Dr. George Gilmore, of Pen Park, a gentleman of high social standing, and with whom he had formed a fast friendship some time previously. His father-in-law insisted that his newly found son should take up his abode in his spacious mansion, and the young attorney was at once transferred to a circle of wealthy and influential citizens. Pen Park possessed what to him was of infinitely more value than money, a magnificent library, and here the son-in-law literally reveled in the best literature, both in prose and poetry. Here too, he formed the acquaintance of those men who were soon to be called to the highest positions in the gift of the Nation.

Virginia has been called the mother of Presidents, and three of her sons were to be thus honored at the time of Mr. Wirt's advent into that State. Jefferson, Madison and Monroe lived in the neighborhood of Pen Park, and he moved in their society and also with them made the tour of the court circuits. Those were grand days for the rising young lawyer; he had the *entree* of the best families and was everywhere received with pleas-

ure, whether in the contests at the Bar, or in the stately mansions of the aristocracy of those times, for the Nation was then young, and there was not so much of that American Democracy extant, as the later years have developed.

Happy in his domestic life, there was not much left for him to wish; he had established himself in a beautiful seat, called Rose Hill, near that of Pen Park, and his life was one picture of serenity and domestic comfort, when suddenly, like a great cloud that sometimes in the sunny days of June blackens the landscape, without a moments warning, death visited his happy household and took away the companion of his hearthstone, after only four years of supreme felicity.

His great sorrow drove him from home and the surroundings which were now but a constant reminder of what he had lost, and he took up his residence in Richmond, where he commenced a long and brilliant legal and political career. He was made Clerk of the House of Delegates, which position he held for three consecutive years, and was then elected Chancellor of one of the three Districts into which the jurisdiction was divided.

This new appointment required that he should reside in Williamsburg, that quaint old town, now turned over to a mixed population, but at that time one of the most aristocratic and wealthy towns in the State, and the seat of that famous College, William and Mary.

The salary attached to the office of Chancellor was very small, and after performing the duties a year, he resigned. His opinion of the position is thus given in a letter to an intimate friend: "This honor of being a Chancellor is a very empty thing, stomachically speaking, that is, though a man be full of honor, his stomach may be empty, or in other words, honor will not go to the market and buy a peck of potatoes."

Upon his resignation he at once commenced the

practice, settling in Norfolk and sharing the business of Mr. Littleton Waller Tazewell, who was a warm personal friend. He immediately took front rank at the Bar, his position of Chancellor, while it had brought him no salary relatively, had given him standing, which is always of great assistance to a striving young advocate.

While at Norfolk, he began to write for the press, and his effusions appeared in the *Argus* at Richmond, under the title of "The British Spy," as a series of essays. He chose that *nom de plume* for reasons which he gives in a letter in language as follows: "I adopted the character of a British Spy, because I thought that such a title in a Republican paper would excite more attention, curiosity and interest than any other; and having adopted that character I was bound to support it. I endeavored to forget myself; to fancy myself the character which I had assumed; to imagine how, as a Briton, I should be struck with Richmond, its landscapes, its public characters, its manners, together with the political sentiments and moral complexion of the Virginians generally."

This, his first literary production, was a remarkable success; it was not confined to a mere local reputation either; it appeared in London, a rare thing for any literary production that first saw the light in the United States. Its English introduction contained these words: "The people of the United States have so very small a claim on the world for any particular mark of distinction for honors gained in the field of literature, that it is feared the present demand on the English reader may be considered more as a call on British courtesy and benevolence than one of right and equity." The old time British disdain for American attempts at literature, now, happily, is quite abandoned.

After a residence in Norfolk for a period of about three years, Mr. Wirt removed to Richmond. He was now married for the second time, his wife the daughter

of Mr. Robert Gamble, who resided at the Capital of the State. This was in 1806, the following year one of the greatest trials that ever occurred in the United States was commenced in Richmond: that of Aaron Burr for high treason, John Marshall, who was Chief Justice of the Supreme Court of the United States, presiding. Mr. Wirt was retained to assist the United States District Attorney in the prosecution of the grave charges. The difficult and laborious character of the work involved in a prosecution of this character, taking into consideration the relative newness of the Nation, and the distinguished individual who was arraigned, required a talent and an energy beyond that possessed by the average lawyer. Mr. Wirt was at that time but thirty-eight years old, and upon him fell the burden of labor. His eloquence in this cause was something grand, and detached portions of his address to the Court still do duty as declamations at school.

Upon the accession of Mr. Monroe to the Presidency of the United States, Mr. Wirt was called to the Department of Justice. His duties as Attorney General required his presence in Washington, and he took up his residence there. It was a busy time during his occupancy of the office of Attorney General; his decisions embrace an immense class of topics. His most prominent cases are: *McCulloch v. the State of Maryland*; the *Dartmouth College Case*; the *New York Steamboat Case*, and *Gibbons v. Ogden*; the latter determining the Constitutionality of the grant to Livingston and Robert Fulton, which conveyed to them exclusive right to navigate the rivers and lakes of New York.

The *Dartmouth College* case was that in which Daniel Webster made his *debut* before the Supreme Court of the United States. It was removed to the Supreme Court on a writ of error sued out by the original plaintiffs, the Trustees of the College, and came on for

argument on the first Monday of February, 1818, Daniel Webster and Mr. Hopkinson were the attorneys for the plaintiffs in error, and Mr. Wirt and Mr. Holmes, of Maine, for the defendant in error, the State of New Hampshire.

For twelve years Mr. Wirt was Attorney General of the United States, a longer period in that capacity than ever held by any other individual. He retired from the office in 1829, and then fixed his residence in Baltimore, Maryland, the State of his nativity, where he continued the practice of the law as assiduously as ever, and also indulged in the avocation of literature, for which he still had a decided penchant. A year later he delivered an address before the Literary Societies of Rutgers College, which has been considered his masterpiece of eloquence. It was directed to the young men of the country, for whom he always had a tender regard, and in the address he portrayed the struggles and events of his own successful life, which lessons teemed with useful hints relative to how a young man should conduct himself, and the history a career worthy the emulation of every student of law in the land.

The Honorable John P. Kennedy, in his memoirs of Mr. Wirt, says in relation to this point: "We have remarked of Wirt, that his life is peculiarly fraught with materials for the edification of youth. His career is full of wholesome teaching to the young votary who strives for the renown of an honorable ambition. Its difficulties and impediments, its temptations and trials, its triumph over many obstacles, its rewards, both in the self-approving judgment of his own heart and in the success won by patient labor and well directed study, and the final consummation of his hopes, in an old age not less adorned by the applause of good men than by the serene and cheerful temper inspired by a devout Christian faith. All these present a type of human progress worthy of

the imitation of the young and gifted, in which they may find the most powerful incentives toward the accomplishment of the noblest ends of a generous love of fame."

In 1831, at the time of the Anti-Masonic excitement, he accepted the candidacy of that party for President of the United States, and received the electoral vote of one State, Vermont.

Of Mr. Wirt's talents as a lawyer, there is but one opinion; his purely literary efforts do not meet with that universal endorsement. The comments of the critics at the time, comprising such men as John Neal, R. W. Griswold and Daniel Webster, are as widely at variance as the poles.

Mr. Wirt's second wife, Miss Elizabeth Washington Gamble, was the author of a literary work as well as her distinguished husband: "Flora's Dictionary." The criticism of this in C. D. Cleveland's *Compendium of American Literature*, states: "As far as my knowledge goes, it was the first of the kind published in our country, and I think it has never been excelled by any of its numerous competitors."

On the 18th day of February, 1834, while attending a session of the Supreme Court of the United States, at the age of sixty-two years, William Wirt reclined in the embrace of death. Thus in the fullness of years, with a distinguished name for posterity to honor, the victories of success unshaken, and the bonds of love unsevered, did a great intelligence perish. His life was a model of simplicity, and his nature as pure and spotless as the fresh blown blossom of the rose. He reaped the rewards for his labor, and at its close folded his arms in that ceaseless slumber bidden by the Prince of Peace.











